

**Indiana  
Title V Program Review**

**Performed by USEPA Region 5  
August 2004**

**June 30, 2005**



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### **APPENDICIES**

- A. Title V Program Evaluation Questionnaire
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### **ATTACHMENTS**

- A. "Protocol for Incorporating Federally-Approved Permits into Title V Operating Permits"
- B. Essroc Cement Corporation Part 70 Operating Permit, issued June 15, 2004 (No.T019-6016-00008)
- C. "Title V Concurrent Review Protocol," April 28, 1999
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## **I. Executive Summary**

In August of 2004, the United States Environmental Protection Agency (USEPA), Region 5, conducted an evaluation of the Indiana Department of Environmental Management's (IDEM) Clean Air Act Title V operating permit program. This evaluation was part of USEPA's ongoing oversight of state and local NSR and Title V permit programs.

Based on the evaluation, USEPA determined that IDEM's primary program strengths include: issuance of detailed, well-organized part 70 permits; maintenance of comprehensive model permits (including model permits for specific source categories); inclusion of a thorough technical support documents (TSD), IDEM's equivalent of the part 70 Statement of Basis requirement; maintenance of a functional, effective permit tracking system; and a well-implemented public participation process. Areas found to be in need of improvement include: a substantial backlog in issuance of initial and renewal Title V permits, a lack of competitive staff salaries and ability to retain experienced staff, and a lack of rationale in the TSD as to why monitoring/record keeping requirements were not added to a permit. USEPA has been working closely with IDEM, especially in recent months, to explore ways to complete the issuance of initial Title V permits.

## **II. Introduction**

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 consists of two components: a questionnaire about program implementation and a file review. The purpose of the program evaluation is 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 23<sup>rd</sup> through the 25<sup>th</sup>, 2004, Region 5 staff visited the Indiana Department of Environmental Management (IDEM) offices in Indianapolis, Indiana. During the visit, Region 5 and IDEM staff discussed in detail IDEM's responses to the questionnaire and Region 5 conducted a file review according to the criteria set forth in the questionnaire. The results of the discussions are included in Appendix A and B.

The findings and conclusions in this report are based on the answers IDEM provided on the questionnaire, the file review, and USEPA staff knowledge of the program from experience with reviewing Indiana permits. This information was compared to the federal statutory and regulatory requirements.

### **III. Description of IDEM's Program**

Indiana submitted to USEPA its program to fulfill the requirements of Title V of the Clean Air Act (CAA) and 40 C.F.R. part 70 on August 10, 1994. USEPA reviewed Indiana's program submittal and granted final interim approval on November 14, 1995 contingent on Indiana correcting two program deficiencies. On December 4, 2001, after Indiana satisfactorily corrected these deficiencies, USEPA granted final full approval. On December 11, 2001 USEPA issued Indiana a Notice of Deficiency (NOD) outlining problematic program changes made during Indiana's correction of the two deficiencies mentioned above. On August 13, 2002, USEPA published a Federal Register notice, notifying the public that Indiana had satisfactorily corrected the NOD issues.

As part of Indiana's minor source permit regulations submitted to USEPA on February 3, 1999, IDEM requested approval to operate a 'merged' Title V/NSR permit program. This proposed program revision, contained in section 2-7-10.5 of the Indiana Administrative Code (IAC), allows IDEM to issue permits that contain both part 70 operating and part 51 construction permit conditions. Although USEPA had not approved this proposed revision to Indiana's Title V program, on January 16, 2002 USEPA and IDEM signed a Protocol for Incorporating Federally-Approved Permits into Title V Operating Permits. This protocol (included in this report as Attachment A) contains specific permit language and process requirements that IDEM must fulfill when incorporating New Source Review (NSR) construction permit conditions into Title V permits. This merged permit program allows Indiana to process significant permit modifications at the same time as significant source (construction) modifications and significantly reduce the permitting burden on sources and the State. Indiana is currently working to gain approval to issue combined pre-construction (including major NSR) and part 70 operating permit approvals as part of the permitting process for greenfield sources.

### **IV. Findings**

#### **A. Strengths**

##### *Model permit*

As part of IDEM's part 70 Operating Permit Program, Indiana

maintains (and updates frequently) a model permit that contains all of the basic part 70 and SIP requirements. IDEM also maintains model permits for specific industry groups such as steel mills, power plants, etc. These model permits allow IDEM to maintain a consistent permit structure and content, and speed permit development and issuance. Furthermore, when a permit deficiency is located, IDEM can make changes to the model permit allowing for quick fixes to all subsequently drafted permits.

#### *Permit Content/Detail*

IDEM includes a sufficient amount of detail in its permits, incorporating the actual MACT or NSPS language wherever possible, rather than incorporating the requirements by reference. USEPA supports this level of detail in Title V permits, and, for this reason, has found Indiana permits to be a useful resource for allowing for a better understanding of the applicable requirements. IDEM commented that it believes this makes for a more effective permit but, as a downside, likely results in additional permit appeals once the permit is finalized.

Indiana's TSD contains considerable detail and typically contains a thorough review of the source, including permit history, detailed emission calculations, a list of applicable regulations, and other information about the source. This thorough TSD provides for renewal permits to be drafted more quickly, allows the public to gain a better understanding of the justifications for IDEM's permitting decisions, and fulfills the intent of 40 C.F.R. § 70.7(a)(5).

#### *Title V process finding unpermitted units*

The Title V process has allowed Indiana to uncover a number of previously un-permitted emission units/modifications. Based on USEPA staff experience, IDEM has done a noteworthy job at uncovering these un-permitted units and requiring sources to obtain the required permit modifications, including, in some instances, application of BACT. During the drafting of the Dalton Corp. Warsaw Manufacturing Title V permit, for example, IDEM uncovered an emission unit that escaped PSD review. IDEM is in the process of issuing a PSD permit (with BACT and air quality analysis) to this source at the same time as its Title V permit.

### *Permit tracking system*

Indiana's permit tracking system, commonly referred to as CAATS (Computer Assisted Approval and Tracking System), is a functional and effective tool for tracking permits for IDEM. CAATS allows IDEM staff quick access to a source's permitting history, current permit status, and staff currently assigned to a permit. This program also tracks the permit application process time which helps IDEM keep track of its permit backlog.

### *Public Outreach*

IDEM has dedicated considerable resources toward public outreach, including holding public meetings, extending public comment periods for permits to accommodate public comments, continually updating websites, holding citizen trainings, and developing a number of educational documents. For example, IDEM is currently in the process of reopening a public comment period for Citizens Gas and Coke Utility in Indianapolis due to the completion of an environmental assessment study at a nearby public school.

IDEM currently publishes all of its permitting actions (including a copy of Title V permits, TSDs, and Addendums) online allowing the public easy up-to-date access to IDEM permitting documents and decisions.

## **B. Areas Needing Improvement**

### *Permit Issuance*

As of January 1, 2005, the Department still has 59 companies which submitted permit applications prior to December 2001 but which have not received Title V permits. USEPA Region 5 is working with IDEM to efficiently issue the remaining permits. IDEM has set a proposed completion date of June 30, 2006 to issue all remaining outstanding Title V permits.

Recently, USEPA staff began looking at the issuance rates of Title V renewal permits for Region 5 states and found a renewal permit backlog in all six states. As of January 1, 2005, IDEM has issued only 23% of the Title V permits that are up for renewal.

### *Test Method Identification*

Indiana does not typically identify a specific test method for testing requirements in Title V permits (unless the testing

requirement is pre-established through a NESHAP or NSPS). The permit allows the emissions test method to be established after the source commences operation. This practice does not allow the public and the permittee due process because this information is not available for comment during the public comment period.

#### *File Review Organization*

Although USEPA was eventually able to locate all files necessary to complete the file review section of this program evaluation, USEPA found the files to be very disorganized. Compliance and permitting files appeared to be mixed together and it was difficult to locate the permit application and a current copy of the Title V permit.

#### *Lack of rationale on monitoring/recordkeeping decisions*

IDEM does not typically explain in the TSD why it did not add periodic monitoring to a permit to demonstrate compliance with some emission limits. As stated in 40 C.F.R. § 70.6(a)(3)(B), permits should contain monitoring sufficient to demonstrate compliance with the terms of the permit. USEPA has consistently held that any lack of "sufficient" monitoring should be stated in the technical support document. Indiana has stated that providing a rationale in the TSD for all monitoring decisions in the permit is too burdensome. USEPA is currently working with Indiana to address its concern yet ensure that the TSD meets the requirements of 40 C.F.R. part 70.

### **C. Other Noted Aspects of the Program**

#### *Email notification System*

Indiana noted during the questionnaire interview that it is working on an email permit notification system. Although still in the developmental stage, IDEM stated that it believes this approach could be a more effective tool for reaching the public regarding permitting decisions.

#### *Concurrent Review*

Through an agreement between Region 5 and IDEM dated April 28, 1999 (See Attachment C) and in accordance with 326 IAC 2-7-18(b), under certain circumstances Indiana is allowed to conduct the 30-day public comment period at the same time as the 45-day USEPA review period. By allowing concurrent review, Indiana has been able to shorten the time necessary to take a final permit

action. USEPA still retains the authority to require the full, sequential 45 day review period if USEPA deems it necessary.

*Lack of competitive salaries and ability to retain experienced staff*

According to the staff interviewed for this evaluation, Indiana does not offer competitive salaries and there is considerable difficulty in hiring replacements and retaining experienced staff. This issue was noted as a potential hindrance to Title V permit issuance.

**V. Recommendations**

As discussed above, USEPA believes that IDEM has been issuing high quality, comprehensive permits. USEPA is concerned however with the rate of issuance of the remaining initial and late renewal of Title V permits. In December 2004, IDEM submitted to USEPA a list of all outstanding initial Title V permits with target public notice, proposed, and final issuance dates. USEPA recommends that IDEM take the measures necessary to meet this schedule. Many of the remaining initial Title V permits are complex steel mill, foundry, and power plant permits. Many of these sources are the subjects of ongoing enforcement cases, which complicates permit issuance. USEPA is available to assist IDEM in meeting this schedule.

Additionally, as described above, USEPA recommends that IDEM work to create a more organized permit filing system, include test methodologies in Title V permits, and provide an explanation in TSDs where "sufficient" monitoring was not provided in the permit.

**VI. IDEM Comments**

IDEM has requested that USEPA provided training to staff on various Title V permitting issues.

IDEM has expressed concern with the number of Title V permits being appealed. IDEM is working with sources prior to permit issuance to help reduce the number of future appeals.

**VII. Good News Stories**

According to Indiana's response to the questionnaire, the Title

V program has allowed IDEM staff to gain a better understanding of NSPS, SIP, major, and minor NSR permit requirements and to write a more enforceable permit. The Title V program has allowed Indiana to review past permitting decisions and obtain any missing permits in its files, add additional monitoring to ensure compliance, and determine if any older sources or emission units were operating without the correct permit. IDEM staff was able to provide instances where sources have been required to obtain a PSD permit and apply the Best Available Control Technologies (BACT) which they had avoided due to errors discovered while issuing the sources' Title V permits. Indiana permit staff have created workgroups for certain source categories (such as steel mills and utilities) to ensure better regulatory consistency.

In the process of drafting Title V permits Indiana has discovered that many facilities were out of compliance, and through the Title V process, were able to educate the regulated community on applicable requirements. In the questionnaire Indiana has indicated it believes Title V has caused an increase in environmental audits, an increase in staff and resources devoted to environmental management at facilities, and a general increase in facility awareness of their compliance obligations.

APPENDIX A.  
Title V Program Review Questionnaire  
Indiana: August 23-24, 2004

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

Approximately 50%. To improve the quality of permit applications, IDEM has increased training, guidance and outreach. A guidance document intended for both applicants and citizens titled, "The Plain English Guide to Environmental Permitting" is available online at <http://www.in.gov/idem/guides/permit/air/index.html> and is distributed at public meetings, training, and other events. This guide provides an overview of what sources should be regulated, current/potentially applicable air regulations, and other pertinent permitting information.

Permit applications and instructions are available online at <http://www.in.gov/idem/air/permits/apps/index.html> and have been routinely revised to clarify and simplify the application requirements since the start of the program.

As IDEM staff has become more knowledgeable on the Title V program and staff training has increased, staff has been better able to handle questions from applicants.

- 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?

Applicants work very closely with IDEM to ensure information is up-to-date. IDEM generally allows applicants a chance to review a draft permit prior to public notice to ensure that all information is accurate and current. Any time an applicant updates their application with new information, IDEM requires a new compliance certification.

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

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

**The permit reviewer consults with the compliance inspector for the source and enforcement staff to verify compliance. Each Technical Support Document (Indiana's equivalent of the Statement of Basis), contains a section titled "Enforcement Issues" which details pending enforcement actions, if any.**

Y  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?

**If the compliance schedule is available IDEM will include it in the permit. For sources with pending USEPA enforcement cases, IDEM will include placeholder language until a schedule for compliance is created. There are times when IDEM will include a statement clarifying that the Part 70 permit shield does not apply to a condition in question. The Essroc Title V permit has been attached as an example of the use of placeholder language (see Condition D.3.14(e) on page 61 in Attachment B).**

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

**IDEM has a permitting mentor program, in which every draft permit is reviewed by a senior permit staff member (mentor), the Section Chief, and the Branch Chief prior to issuance. The mentor helps guide newer staff and ensure the quality of drafted permits prior to public notice.**

**IDEM has made a number of improvements to their model permit language over the years. The model permits are routinely revised to reflect current guidance and provides permit writers with instructions on what should be included in the permit. Training is also routinely provided to the permitting staff, such as Gary McCutchen's "Effective Permit Writing" and New Source Review Reform training.**

Increased communication between IDEM and the Permittee has also allowed IDEM to improve the quality of their permits. By IDEM permit staff working closely with applicants while the permit is being drafted, the number of comments/concerns by the Permittee is greatly reduced. This helps reduce the number of comments made by the Permittee during the public comment period that IDEM needs to respond to and the number of permit appeals after permit issuance. For larger sources IDEM will sometimes send parts of the draft permit to the Permittee at a time prior to public notice for approval to speed processing time. IDEM has also, on occasion, scheduled an early public hearing for permits with high public interest to provide citizens with a chance to provide verbal comments and reduce the chance of an extension of the public comment period.

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

As described above, every permit is reviewed by a mentor, a Section Chief, and the Branch Chief prior to issuance. The permit writer works closely with the applicants to ensure the accuracy of the permit content.

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.

In general every applicable requirement is included in the Title V permit. There are times when specification of the exact test method to be utilized are not incorporated into the permit. IDEM incorporates the general NSPS and NESHAP requirements by reference in the beginning of the corresponding, applicable section of the permit.

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.

Indiana permits are typically composed of four sections, A through D. The 'D' Section contains unit specific permit requirements grouped by similar emission units (i.e. emission units with similar requirements). Overlapping requirements in a 'D' section are sometimes streamlined into a single permit condition.

c. Describe any other streamlining efforts.

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?

**Strengths:** Indiana permits are very comprehensive. They are well organized; a source can split individual 'D' sections to the corresponding process line or group of emission units. By including the specific limits, recordkeeping, and reporting requirements, the applicant and public doesn't have to go back to the rule to find the requirements. Also, IDEM is currently working to write permits in "plain English".

**Weakness:** The permits are lengthy due to the immense amount of detail included. The amount of detail in the permits has resulted in a large number of appeals and comments from the applicant.

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

Indiana includes a Technical Support Document (TSD) with every issued Title V permit. Each TSD provides a complete analysis of the basis for the permit and generally includes a description of all emission units at the source (including insignificant emission units), a list of all existing permit approvals, details on any enforcement issues, emission calculations, and a list of all applicable federal and state regulations. The TSD for the Essroc Cement Corporation in Speed, Indiana is included in Attachment B as an example statement of basis.

9. Does the statement of basis<sup>1</sup> explain:

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<sup>1</sup> The Statement of Basis sets forth the legal and factual basis

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

**IDEM does include all applicable underlying monitoring requirements, however the rationale on why additional compliance monitoring/recordkeeping/reporting through Title V was not added is generally not included in the TSD.**

Y  N  b. Applicability and exemptions, if any?

**Every Indiana TSD includes a section for Rule Applicability that describes which emission units are subject to different regulations and a brief justification on how the emission units fulfill the regulatory requirements subjecting them to the rule. IDEM also commonly includes in this section of the TSD a list of some potentially applicable NSPS or NESHAPS rules that were excluded from the permit.**

Y  N  c. streamlining (if applicable)?

**NA**

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

**Indiana has developed an extensive model TSD that assists permit writers in developing a consistent and comprehensive statement of basis. The mentoring program also ensures that all TSDs are thoroughly reviewed prior to issuance of the permit/TSD. Permit writers are also encouraged to take any available training such as Gary McCutchen's "Effective Permit Writing".**

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

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

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for the permit as required by 70.7(a)(5). The permitting authority might use another name for this document such as Technical Support Document, Determination of Compliance, Fact Sheet.

Y  N  b. Pending revisions to underlying NSR permits

Y  N  c. Compliance/enforcement issues

In the past IDEM was waiting to issue Title V permits until all outstanding enforcement issues were resolved. Region 5 and IDEM however, recently developed placeholder language that allows incorporation of compliance/enforcement issues after a permit has been issued (See page 61 of the Essroc permit included in Attachment B).

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

If a MACT has not yet been promulgated, IDEM will not wait to issue a Title V permit. They will reopen the permit if and when it is necessary at a later time. If a MACT has been promulgated but is not yet effective, IDEM typically adds a permit condition that states that a source must submit an application prior to the effective date detailing the compliance options they have chosen.

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

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

Priority is given to construction permits over initial Title Vs since Indiana has a State mandate that all Title I permits be issued in a timely manner.

Y  N  g. Awaiting USEPA guidance

i. If yes, what type of guidance? **NA**

Y  N  ii. If yes, have you communicated this to USEPA? **NA**

12. Any additional comments on permit preparation or content?

B. General Permits (GP)

Y  N  1. Do you issue general permits?

a. If no, go to next section

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

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? **NA**

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

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

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?) **NA**

4. Is the 5 year permit expiration date based:

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

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

5. Any additional comments on general permits? **NA**

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?

**The Indiana Administrative Code (IAC) allows for additional monitoring, not specified in an underlying requirement to be added (see below):**

**326 IAC 2-7-5(3) "Monitoring and related record keeping and reporting requirements, which assure that all reasonable information is provided to evaluate continuous compliance with applicable requirements."**

**326 IAC 2-7-6(1) "compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance...."**

**326 IAC 2-1.1-11 "the commissioner may require stack testing, monitoring, or reporting at any time to assure compliance with all applicable requirements."**

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

**IDEM has developed a "Compliance Monitoring Guidance" dated May 14, 1996 that includes basic guidelines for inclusion of compliance monitoring into permits. The guidance includes an explanation of Indiana's compliance monitoring approach, information on compliance monitoring requirements, and model permit conditions. It should be noted that USEPA has not reviewed or approved this guidance and does not necessarily agree with all of its contents.**

Y  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).

IDEM has provided monitoring training to staff including; CAM monitoring in April 1998, a BHA Air Pollution Control Baghouse Seminar in July of 2000, the "Effective Permit Writing" class (mentioned above) and USEPA's Air Pollution Training Institute (APTI) courses (see [http://www.epa.gov/air/oaqps/eog/course\\_listing.html](http://www.epa.gov/air/oaqps/eog/course_listing.html)).

Y  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?

100% of the permits have added monitoring. Indiana has added a number of parametric monitoring requirements to Title V permits. Also, many of the older construction permits did not contain a frequency for stack tests. IDEM has added a stack testing frequency of every 1-5 years for many of these sources.

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

IDEM has been incorporating CAM monitoring in all applicable renewal permits.

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?

**In general IDEM will publish one notice in the County in which the source is located.**

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)?

**\$50 (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?

**Indiana usually only publishes a notice in one newspaper in the County in which the source is located. If there is more than one major newspaper, IDEM will generally choose the paper closest to the source. For permits with increased public interest, IDEM will occasionally publish notices in multiple papers. For all permits in Lake County, IDEM publishes notices in 2 newspapers (the Gary Post Tribune and The Times).**

b. How do you determine which publications to use?

**Publications are published in the largest newspaper of general circulation in the County where the source is located.**

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

**IDEM is currently working on creating an email permit notification system.**

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?

**Any interested party can request by email, telephone, or the IDEM website (<http://www.in.gov/idem/air/permits/oaqlist.html>) to be added to a mailing list. Anyone who comments on a permit will also automatically be added to that list. Citizens can request to be added for a particular source or any sources within a County.**

b. How does the list get updated?

**By request.**

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

**For the life of the source.**

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

**At PN- the public notice letter**

**At issuance- the final permit, notice of decision letter, and a plain English guide on how they can appeal the decision.**

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)?

**All public notices are posted on IDEM online air permits database (<http://www.in.gov/idem/air/permits/Air-Permits-Online/index.html>). Public meeting notices are also listed online on the Event Calendar (<http://www.in.gov/ai/calendar/>). IDEM is also working to creating an e-mail notification system.**

Y  N  7. Do you reach out to specific communities (e.g.,

environmental justice communities) beyond the standard public notification processes?

IDEM has a map (posted in the office and electronically) that highlights areas of potential environmental justice (EJ) concerns ([http://www.in.gov/idem/environmentaljustice/images/EJmaps\\_highres.pdf](http://www.in.gov/idem/environmentaljustice/images/EJmaps_highres.pdf)). Sources located in an EJ area are noted to management. Depending on the size of the source, additional public meetings or other outreach may be added to the public notice process.

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

The date is based on the day the newspaper prints the notice, so IDEM only includes in the notice the statement that it starts on the day it's published and ends 30 days after. IDEM did provide a specific end date in the public notice for the steel mill permits and allowed for a 60-day public notice period, (instead of 30) to allow the public more time to comment on these larger permits. The IDEM website (<http://www.in.gov/idem/air/permits/Air-Permits-Online/index.html>) will list the start and end date of the public notice period.

Indiana noted that they will almost always extend a public notice period upon request and will generally accept comments received after the public comment period as long as the TSD Addendum (response to comments) has not yet been finalized.

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

Direct mailing, but email notification could also potentially be very effective.

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.

Although not routine, Indiana has provided public notices in Spanish, when necessary. IDEM has a staff member that is able

to translate notices into Spanish.

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?

Indiana will almost always extend the public comment period, if requested. If a public hearing is held toward the end of a public comment period, IDEM will often extend the comment period to allow the public extra time to submit comments. Notice is provided if the comment period has been extended. Indiana will also accept some comments after the close of the public comment period if the response to comments document has not yet been finalized. IDEM has even closed and reopened a Title V public comment period pending the completion of a risk assessment at a school.

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

NA

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.

The public has requested notices be written in plain English so they are easier to read. They have also requested that notices include the end date.

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

A copy of the statement of basis is available online with the draft and final permit and can be mailed upon request.

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

Indiana does not track this number. The permitting staff however, estimates that approximately 10 percent of all Title V permits receive comments from citizens.

Y  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?

**There has been an increase in public comments and requests for public hearings. There has also been an increase in the number of permit appeals. Most of the smaller, less complex Title V permits were issued prior to the larger sources now being issued initial Title V permits. The larger sources appear to generate more comments; mostly from the source itself.**

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

**Due to increases outreach and training, the quality of comments has improved.**

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

**IDEM does not track this number. Permitting staff however estimate that only approximately 5 percent of total permit comments result in a change to a permit. Most of the citizen comments result in just an explanation.**

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

**Certain environmental groups have been active in commenting on Title V permits (such as the Citizens for Organized Watch).**

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?

**Indiana re-public notices (re-PNs) permits when there is a new applicable requirement such as a NESHP, or if there have been significant revisions to the permit since originally PN'd.**

For example, the Toyota Title V permit was re-PN'd when it was determined that a BACT condition needed to be revised.

EPA 45-day Review

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

Pursuant to 326 IAC 2-7-18(b) the 30-day public comment period and the 45-day USEPA review may run concurrently if IDEM receives no comments or makes no changes to the draft permit. IDEM and Region 5 also have a "Title V Concurrent Review Protocol" which specifies under which circumstances the public comment period may run concurrently and when USEPA may expedite a permit review. The Protocol is currently being revised, but a copy of the original Protocol is available at <http://www.epa.gov/ARD-R5/permits/oper/ia.htm>) and is included in this report as Attachment C.

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

**There is currently no notification process.**

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

**See response to question 19 above.**

Permittee Comments

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

To expedite issuance of initial Title V permits, reduce the number of comments from the permittee, and reduce the potential number of permit appeals, IDEM generally works very closely with permittees prior to public notice. Since many of the permit applications were submitted years ago, IDEM works with the

**permittee to obtain up-to-date information.**

Y  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?

**Although IDEM works very closely with the permittee prior to public notice, the permittee will still generally provide comments during the public notice period. Many of the applicants use attorneys or consultants that send the same comments on each permit they represent. These comments slow down final issuance. Some of IDEM's TSD addendums (response to comments) end up being longer than the actual permit.**

#### Public Hearings

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

**A request for a public hearing. Indiana will also schedule a public hearing if they anticipate a lot of public interest.**

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

#### Availability of Public Information

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

**A State rule requires that IDEM charge for photocopies but IDEM uses a "public interest" clause to waive the charge whenever possible.**

If yes, what is the cost per page?

**When a charge is applicable, IDEM charges 10¢/page.**

Y  N  a. Are there exceptions to this cost (e.g., the

draft permit requested during the public comment period, or for non-profit organizations)?

**See above. Non-profit organizations are excluded from photocopying charges, if requested.**

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

**When fee is waived expense is covered through Title V fees.**

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?

**IDEM maintains a file room that is open to the public during business hours or will send information to interested parties upon request. Permit related documents are also available at a library near the permitted source. Monitoring documents can be obtained from the IDEM Compliance Branch and are not generally stored with the other permitting documents.**

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

**The public library in the area where the source is located contains copies of the application, permit and TSD. This information is also available at Regional offices.**

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

**A couple of days.**

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

**IDEM will however accept comments after the close of the public comment period, if received before the TSD Addendum (response to comments) is finalized.**

a. Where is this information stored?

**At IDEM.**

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?

**IDEM will extend the public notice period if a public hearing is requested at the end of the public comment period to allow the public a chance to comment after a hearing. For permitting actions with increased public interest, IDEM will sometimes schedule a public hearing early in the public comment period to reduce the number of comments and the chance the comment period will need to be extended.**

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

a. What is available online?

**Permits, application forms, program information, public participation information, guidance, environmental justice information, policy documents, rules, and other information.**

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

**The permits page is updated every day. There is a public participation guide titled "IDEM's Guide for Citizens Participation" (<http://www.in.gov/idem/guides/publicparticipation/index.html>).**

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

**IDEM is working on an email public notification system.**

Y  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.

If citizen comments were received during the PN period, IDEM sends a notice to the commenter that the permit is proposed and that they can request that USEPA object to the permit.

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

IDEM has a webpage (<http://www.in.gov/idem/air/permits/#public>) that lists links to public participation documents including, "IDEM's Citizens Guide to Public Participation", "the IDEM Permit Guide" and New York Public Interest Research Group's "The Proof is in the Permit". This webpage also has a link for the Public Meeting Calendar and to request to be added to a mailing list. Documents online are also available in hard copy upon request. Copies of these documents are usually brought to public meetings and workshops hosted by IDEM.

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

IDEM periodically holds Citizen Workshops and trainings, such as a workshops held in early 2003 in Portage and Gary, Indiana Titled, "How IDEM Protects Air Quality". This workshop, like many other public meetings and trainings held by Indiana focused on how the public can participate in the permitting process. IDEM has also held trainings that specifically target Title V such as a training in June of 2000 titled "Citizen Participation in the Title V Air Permitting Process".

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

a. Where are they in the organization?

**In the Permit Administration Section.**

b. What is their primary function?

IDEM's Section Chief for the Permit Administration Section (Joanne Smiddie-Brush) oversees the public participation,

relations, and outreach for IDEM's Office of Air Quality. She organizes public hearings, workshops, public notifications, and ensures the public is aware of various permitting issues. Another staff member within the Permit Administration Section (Susan Newton), is also currently spending approximately 75% of her time on public participation related to the Title V program.

Affected State Review and Review by Indian Tribes

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

**Via e-mail.**

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

**If the TV source is within 50 miles, we notify that State.**

35. How do you notify tribes of draft permits?

**NA. There are no tribes in or near Indiana.**

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

**IDEM permitting staff was only aware of one instance in which comments were received from another State; Kentucky's comments on the PSI Gallagher Title V Permit, issued July 1, 2004.**

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?

**IDEM was only aware of the one instance.**

38. Suggestions to improve your notification process?

**None noted.**

Any additional comments on public notification?

-Revise Part 70 so that minor permit mods do not require 5 day notification.

-Increased public participation is good, but makes it hard to keep up with permit issuance.

E. Permit Issuance/Revision/Renewal

Initial Permit Issuance

Y  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 USEPA do to help?

As of December 1, 2004 IDEM has 61 more Title V sources (for which applications were received prior to December 1, 2001) that have not been issued an initial Title V permit. IDEM maintains a Progress Report that lists all remaining initial Title V sources without a permit and which permits are to be issued, sent to USEPA, or public noticed each week. Any permit that is not issued or public noticed on schedule is carried over to the following week. IDEM predicts that all remaining initial Title V permits should be issued final by December 31, 2005. Many of the remaining permits are large complex sources with multiple contractors and considerable public interest, slowing the permitting process. Almost all of the remaining initial Title V permits exist in some draft form.

IDEM management has created a display in the office with notecards containing the names of the remaining initial Title V permits to be issued. As the permits are sent to USEPA, noticed, or issued final, they are moved into a different area on the display. This display was created to encourage staff to issue the remaining permits.

IDEM staff noted that many of the sources have been in disagreement with IDEM as to the level of detail that should be included when incorporating recently finalized MACTs. Many sources are requesting that the MACTs be incorporated by reference and the whole subpart be attached to the permit. IDEM staff indicated that they may be requesting USEPA's assistance in resolving this disagreement.

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:

Y  N  a. Administrative amendment? (See § 70.7(d)(vi))

**See 326 IAC 2-7-11 for Indiana's administrative permit amendment rules.**

Y  N  b. §502(b)(10) changes? (See §70.4(b)(12))

**See 326 IAC 2-7-20 for allowances for 502(b)(10) changes in Indiana's rules. This provision is rarely used.**

Y  N  c. Significant and/or minor permit modification?  
(See §70.7(e))

**See 326 IAC 2-7-12 for Indiana's permit modification rules.**

Y  N  d. Group processing of minor modifications?

**See 326 IAC 2-7-12(c) for Indiana's group processing of minor modifications rules. This provision is rarely used.**

Y  N  3. If the USEPA Regional office has formally asked you to re-open a permit, were you able to provide USEPA with a proposed determination within 90 days?  
(40 C.F.R. 70.7(g)(2))

**NA. USEPA has never requested that IDEM re-open a Title V permit.**

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?

**As of 8/9/04 we have issued 1,195 changes to TV permits (272 significant permit modifications, 146 minor permit modifications, and 777 administrative amendments).**

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

i. Significant	22.8%
ii. Minor	12.2%
iii. Administrative	65%

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

i. Off-permit 0%

ii. 502(b)(10) 0%

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

a. a significant permit revision?

**About 120 days for most significant modification but 270 for those that trigger PSD. 326 IAC 2-7-12 requires the majority to be done in 9 months.**

b. a minor revision?

**Close to 90 days. 326 IAC 2-7-12 requires them to be done in 90 days.**

c. an administrative revision?

**Close to 60 days. 326 IAC 2-7-11 requires them to be done in 60 days.**

Y  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.

**IDEM has not taken longer on the 9 months, 90 days, and 60 days timeframes above. Permit revisions are tracked through Indiana's CAATS tracking system. It should be noted that IDEM will 'stop the clock' if an application is deemed incomplete and a letter is sent to the source.**

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

**Since IDEM has a merged NSR/Title V permitting process, they are able to process significant permit modifications at the same time as significant source (construction) modifications.**

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

**IDEM utilizes a Computer Assisted Approval and Tracking System (CAATS) to track all permit revisions.**

Y  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.

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

**See 326 IAC 2-7-12(b)(3)(A) and (d)(2) in Indiana's rules.**

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

**See 326 IAC 2-7-12(b)(3)(A) in Indiana's rules.**

Y  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?

**See 326 IAC 2-7-12(b)(3)(C) in Indiana's rules.**

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).

**In the PN letter IDEM includes a narrative description of the change. The TSD shows the changes with bold and strikeout.**

13. When public noticing proposed permit revisions,

how do you clarify that only the proposed permit revisions are open to comment?

**IDEM includes a cover letter explaining that only the modified portions are open for comment.**

Permit Renewal Or Reopening

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

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

**IDEM is planning to send a number of the renewal permits to contractors for completion. IDEM will continue, of course, to thoroughly review all permits prior to any public notice.**

**Since most of IDEM's TSDs contain a thorough review and background on a source and its applicable requirements, the time it takes to issue a renewal permit is significantly shorter than an initial Title V permit.**

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)

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?

**The renewal application information is available online at <http://www.in.gov/idem/air/permits/apps/tvrenew/index.html>. IDEM allows sources two options for submittal of a renewal application. Option #1: Sources can complete an entirely new set of Title V application forms. These new forms will include any MACT forms and CAM forms that may not have been required during the original submittal. Option #2: Sources may submit what IDEM refers to as a "streamlined application". The streamlined application includes a copy of the original application with updated facility information marked on the form, references to any applicable regulations, copy of the**

latest Title V permit and all amendments, any applicable CAM or MACT forms, and a list of any removed emission units. IDEM has developed a checklist (<http://www.in.gov/idem/air/permits/apps/worksheets/renewalworksheets.pdf>) to assist permittees with what needs to be included.

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

Since all of the previous permits and modifications during the 5 year term have been incorporated into the Title V, there is only one permit to look at for renewal. It is easier to review the TSD and determine what updates are necessary because of new applicable requirements (i.e. NESHAP), revised emission factors, CAM, etc.

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

IDEM sends out reminder letters to Title V sources starting 3 months prior to due date of the renewal application. The reminder letters increase in urgency until the source is referred to enforcement, if necessary. On the IDEM website, there is a permit renewal checklist of documents that the applicant needs to submit for a complete renewal application. A package is sent by IDEM to Title V sources (Attachment D), outlining what is required and how to apply for a renewal application.

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

According to the CAATS permit tracking program, 87% of the Title V renewal applications have been complete and on time.

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

As of 8/9/04, Indiana has issued 58 Title V renewals and has 263 pending Title V renewals.

Y  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 USEPA do to help?

**Indiana is completing many of the renewal permits within 18 months, but there are competing priorities with the original TV issuance. Indiana plans to send many of the renewals to consultants to complete to speed up renewal permit issuance.**

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

**IDEM has revised permits to assure compliance with an applicable requirement, but has never revoked a permit.**

F. Compliance

1. Deviation reporting:

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

**IDEM requires all deviations to be reported quarterly.**

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

**Only deviations due to an emergency. The Permittee is required to call within 4 hours of any emergency lasting >1hr and to follow-up with a written report within 2 days.**

Y  N  c. If yes, do you require a follow-up written report? If yes, within what timeframe?

**Emergency Occurrence Report forms are attached to the back of every Title V permit (see example on page 76 of the Essroc permit included as Attachment B).**

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

**A certification form is attached to every Title V permit (see page 75 of Essroc permit included as Attachment B). A certification form is required for the Deviation reporting but not with the emergency reporting. There is a series of check boxes on the certification form indicating what the Permittee is certifying.**

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

Y  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

follow-up certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

2. How does your program define deviation?

**As defined in Indiana permits (see page 24 of the Essroc permit in Attachment B for an example), a deviation is "an exceedance of a permit limitation or a failure to comply with a requirement of the permit".**

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

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

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

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

**NA. IDEM doesn't have an excused excess emission provisions in their rules.**

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

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

**According to the terms of most Indiana T5 permits, excursions from parametric monitoring are not considered a deviation as long as the response steps in the Compliance Response Plan are taken. Failure to take these steps are considered a deviation.**

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

**See Answer to question above.**

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

Y  N  A. during scheduled routine maintenance or calibration checks

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

Y  N  C. due to an emergency

Y  N  vii. Other? Describe.

3. Do your deviation reports include:

Y  N  a. the probable cause of the deviation?

**See example deviation form on page 83 of the Essroc permit in Attachment B.**

Y  N  b. any corrective actions taken?

Y  N  c. the magnitude and duration of the deviation?

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

**326 IAC 2-7-5(3)(C)(i) requires that deviations be reported every six months but IDEM requires quarterly reporting in the permits.**

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

**See example deviation form on page 83 of the Essroc permit in Attachment B.**

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

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

a. deviation reports?

All reports are reviewed by compliance inspectors. The inspector will take the appropriate action such as a warning letter, notice of violation, enforcement referral, etc.

b. semi-annual monitoring reports?

Same as above.

c. annual compliance certifications?

Same as above.

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

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

IDEM has created a nonrule policy document titled "Guidelines for Submittal and Review of Annual Compliance Certifications under the Federally Enforceable State Operating Permit (FESOP) and Part 70 Permit Programs". This document includes a certification form and is available online. A copy is included with this report as Attachment E.

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

The form is consistent with 326 IAC 2-7-6 of Indiana's rules.

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

continuous or intermittent?

**Whether compliance was continuous or intermittent.**

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

**Sources must use the form or something equivalent.**

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

**Starting in 2004, there is a general condition in the permit that states that any credible evidence may be used to demonstrate compliance.**

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?

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:

**See 326 IAC 2-7-16.**

Y  N                    i. Provide relief from penalties?

Y  N                    ii. Provide injunctive relief?

Y  N                    iii. Excuse noncompliance?

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?

Y  N                    ii. Provide injunctive relief?

Y  N

iii. Excuse noncompliance?

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

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:

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?

G. Resources & Internal Management Support

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

a. If so, what are they?

**In general, issuance of construction permits will take priority over initial Title V permits because Indiana has a state mandate that all construction permits be issued within their regulatory required timeframe. Issuance of initial Title V permits are second in priority. The issuance of Title V renewals, amendments, and incorporation of new NESHAPS are also completing resource priorities that can potentially slow issuance of initial Title V permits.**

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?

**The IDEM Assistant Commissioner recognizes accomplishments by sending out progress e-mails. She has also created a display in the common hallway that shows where the remaining TV's are, there is a section for draft, PN, and issued. When a TV is issued she rewards the permit reviewer with a candy bar.**

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

**The Indiana Branch Chief (Paul Dubenetzky) meets with senior permitting staff regularly to discuss permit issuance progress. Weekly reports are generated to keep management up-to-date on permit issuance progress. Region 5 maintains a simple bar chart that shows the number draft and proposed permits remaining to be issued and as of December has begun tracking the remaining permits.**

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

**The IDEM permitting staff holds weekly meetings to discuss various permitting issues.**

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

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

b. What is your Title V fee?

**\$1500 plus \$33/ton**

6. How do you track title V expenses?

**IDEM develops a spending plan to determine how money is divided up between contractors, internal permit staff, compliance, etc. Indiana tracks all Title V spending through accounting codes that are used by staff anytime a Title V related expense (copying, staff time, etc.) is incurred.**

7. How do you track title V fee revenue?

**All fees go to the Office of Management, Budget, and Accounting, who transfer the Title V fees into a trust fund. The trust fund has a maximum level at which IDEM is required to return part of the collected fees and a minimum level at which IDEM is required to increase permitting fees. IDEM has never been required to raise their Title V fees. IDEM develops its Title V spending plan based on the level of the trust fund.**

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

**IDEM currently has 12.5 full time employees and 24.2 full time contracted employees working on Title V related activities.**

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

**Most of the permit writers assigned to Title V work exclusively on Title V.**

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

b. How do you track the time allocated to Title

activities versus other non-title V activities?

**IDEM uses an accounting code system to track title V expenses.**

Y  N  10. Are you currently fully staffed?

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

**For initial Title V permits, the ratio of permits to permit reviewers varies, but based on the numbers below, as of 8/3/04, this ratio appears to be about 3 permits per writer:**

*Permit reviewers and number of permits remaining.*

*PR1: Amy 1, Chrystal 0, Lek 0, Jed 0*

*PR2: Gail 17, Melissa 9, Teresa 13, Vickie 10*

*NSR Reviewers working on TV: Nisha 5, Trip 2, Scott 1*

*Indy local agency: Amanda 1, Angelique 1, Mark 1, ERG 2*

*Vigo local agency: Rob 2*

*ERG: Amanda 1, Audrey 4, Bob 1, Patrick 1, Sanober 6, YuLien 1*

*Enviroplan: Alic 1, Mike 2, Rajesh 1, Seema 1, Trish 1*

*MES: Carrie Ann 2, Ed 2, Frank 2, Mark 2*

12. Describe staff turnover.

**In the last year (2004), IDEM has lost 6 people. Two left when their husbands took jobs out of state, one left when she had a baby, one returned to his country of origin because his visa expired, one transferred to compliance, and one started a new career after completing his MBA.**

a. How does this impact permit issuance?

**Only 2 of those people were TV permit reviewers, so there has not been a big impact on permit issuance from turnover.**

b. How does the permitting authority minimize turnover?

**In today's economy the job security in working for government has helped minimize turnover.**

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

a. If so, please describe.

**The only career ladder that currently exists for permit writers is to apply for a higher vacated Environmental Engineering, Environmental Scientist, or Environmental Managerial position. For example an Environmental Engineer 2 could apply for a vacated Environmental Engineer 3 position.**

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

**Environmental Engineers are in the process of getting a salary increase to help with competitiveness. Overall however, the salaries are not competitive.**

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

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

**A mentor works with the new reviewer. They start out with rules and guidance and are then walked through their first permit. After that it is all hands on learning.**

17. Does your training cover:

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

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

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

**The Indiana model Statement of Basis contains guidance on what should be included in the Statement of Basis.**

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

**IDEM would appreciate assistance with Title V training and renewal training, especially when we hire new staff.**

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

**The Permits Branch has two permit review sections. The sections are divided by SIC codes. Both sections have 5 full time Title V reviewers, 1 Title V mentor, and a Section Chief. Indiana also utilizes 3 out-of-state contractors to assist with the permit workload.**

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

**The inability to offer competitive salaries and retain experienced people, and the lack of a career ladder.**

#### Environmental Justice Resources

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

If so, may USEPA obtain copies of appropriate documentation?

**IDEM has developed a "Guide for Citizen Participation" through an USEPA and Tribal Environmental Justice Grant. The guide is available online at <http://www.in.gov/idem/guides/publicparticipation/>. The IDEM website also contains environmental justice (EJ) maps highlighting racial and low income minority areas. Permitting staff utilizes these maps to determine the distance to the nearest EJ area. IDEM relies primarily on federal guidance for EJ issues. Indiana tries to do a good job with public participation regardless of the area.**

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

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

**In the fall of 2001, all IDEM staff participated in an**

introductory environmental justice training. The main goal of the training was to gain a better understanding of Environmental Justice, IDEM's role in the context of Environmental Justice, and how Environmental Justice impacts citizens as well as the regulated community.

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

An EJ map is available both on the IDEM website ([http://www.in.gov/idem/environmentaljustice/images/EJmaps\\_highres.pdf](http://www.in.gov/idem/environmentaljustice/images/EJmaps_highres.pdf)), and printed on a large poster hanging in the IDEM's office for access by permit writers.

Y  N  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.

When an application is received, permit writers are encouraged to check if the proposed or existing source will fall within an EJ area. If it is determined that the source is within an EJ area, the permit writer will make management aware and additional public outreach options will be added, if necessary.

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:

- Y  N  a. NSPS requirements?
- Y  N  b. The stationary source requirements in the SIP?
- Y  N  c. The minor NSR program?
- Y  N  d. The major NSR/PSD program?
- Y  N  e. How to design monitoring terms to assure compliance?
- Y  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:

- Y  N  a. Your source universe including additional sources previously unknown to you?
- Y  N  b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?

**In the process of having sources list out old applicable construction permits, IDEM discovered a number of old permits that were missing from IDEM's files. Missing permits were requested from the sources and applicable requirements have/are being incorporated into the Title V permits. By working with the source and with Compliance inspectors, permitting staff have ensured that emission unit/control device information is up-to-date and accurate.**

**Through the Title V process, IDEM has also discovered a number of new emission units or modifications that were operating without a permit. Working with enforcement, IDEM has required**

**these sources to go through the Title V process and obtain the necessary permits (retroactively applying BACT as necessary).**

Y  N  c. Your stationary source emissions inventory?

Y  N  d. Applicability and more enforceable (clearer) permits?

3. In issuing the Title V permits:

Y  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.

**IDEM has found erroneous applicability determinations and previously un-permitted emission units that were operating without a permit through the Title V review process. In general, older construction permits issued in Indiana contain fewer and less frequent monitoring requirements.**

Y  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.

**Indiana has created workgroups for certain source categories, such as the steel mills and the utilities. The permit review staff work as a team and meet regularly with these regulated sources to discuss permit terms and conditions.**

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

b. prior to issuing a draft permit

c. after issuing a final permit

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:

Never / Occasionally / Frequently / Often

a. NSPS requirements (including failure to identify an NSPS as applicable)

b. SIP requirements

c. Minor NSR requirements (including the requirement to obtain a permit)

d. Major NSR/PSD requirements (including the requirement to obtain a permit)

\*

**\* It depends on how you view the pending enforcement cases against utilities, could be occasionally or could be often.**

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

Y  N  a. increased use of self-audits?

Y  N  b. increased use of environmental management systems?

Y  N  c. increased staff devoted to environmental management?

Y  N  d. increased resources devoted to environmental control systems (e.g., maintenance of control

equipment; installation of improved control devices; etc.)?

- Y  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?

**Indiana has never increased their fee rate.**

- Y  N  b. Did that lead to a change in the fee rate (dollars/ton rate)?

**In accordance with 326 IAC 2-7-19, Indiana reviews the fund annually to determine if revenues are sufficient to support direct and indirect costs of the Title V operating permit program. The commissioner may adjust the fee schedule (as necessary) to assure adequate revenues, not to exceed \$13,700,000 (adjusted by CPI). If the balance of the fund, once expenditures are subtracted from the balance, exceeds \$3,000,000, permittees are sent a partial refund.**

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)

**Through the Title V process, Indiana discovered a number of older construction permits were missing from their files. In these instances, replacement copies were requested from the**

**source. In the Indiana TSD, IDEM provides a detailed records history that allows Indiana to better track permitting activity at a source.**

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

**Since Indiana has a combined Title V/NSR permitting program, they are able to make small corrections within a Title V permit to fix NSR permit terms that are unclear or unenforceable. They have also been able to increase monitoring, reporting, and recordkeeping requirements through Title V to assist in enforceability.**

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)

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.

All of the permit models (NSR, FESOP, Title V, etc.) are based on the Title V model. Every operating permit (Title V and other) requires an annual compliance certification certified by an authorized individual. Title V also made Indiana realize they need to develop a tracking system for all permit decisions.

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.

Indiana's NSR permits are merged with their Title V permits, so they are organized and written in a very similar format and also include a TSD.

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

IDEM works more closely with the source while drafting the permit. A copy of the draft permit is shared with sources prior to public notice, so that issues can be worked out prior to the public comment period. For some of the big industry groups, IDEM has developed workgroups to work through TV issues as the permits are drafted.

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

IDEM has developed training and guidance to help the public understand TV permitting and how they can be involved in the permitting process. Also, Indiana has provided longer PN periods and greater availability of draft permit documents for large public interest permits.

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 C.F.R.s and computers?
- Y  N  c. better funding for travel to sources?
- Y  N  d. stable funding despite fluctuations in funding for other state programs?

**Since funding for the Title V program comes directly from the program and is deposited into a trust fund versus funding coming from the Indiana general fund, the program has been able to provide a stable revenue source for the office.**

- Y  N  e. incentives to hire and retain good staff?
- Y  N  f. are there other benefits of the fee program? Describe.

**The TV fees have allowed IDEM to increase resource and hire more compliance inspectors. It has also helped to fund training for citizen participation.**

- Y  N  12. Have you received positive feedback from citizens?
- Y  N  13. Has industry expressed a benefit of Title V? If so, describe.
- Y  N  14. Do you perceive other benefits as a result of the Title V program? If so, describe.
- 15. Other comments on benefits of title V?

**None noted.**

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?

**None provided.**

EPA assistance not addressed elsewhere in this questionnaire

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

**Provide occasional training to IDEM staff on various permitting topics.**

**Appendix B.**  
**File Review Results**

**Summary**

During the site visit in August 2004, USEPA completed a file review of selected Indiana Title V permits. Prior to USEPA's arrival IDEM was requested to choose permits from five different categories. The categories and chosen permits are listed below:

1. A source subject to either a NSPS or MACT regulation. -  
Toyota Motor Manufacturing (permit no. T-051-11646-00037)
2. A permit containing compliance assurance monitoring (CAM) -  
Indian Industries, Inc. DBA Escalade Sports Renewal (permit  
no. T163-17594-00008)
3. A permit that previously applied netting in the permitting  
process - Lehigh Portland Cement Company (permit no. T093-  
5990-00002)
4. A permit whose public notice generated significant public  
comment - Essroc Cement Corporation (permit no. T019-6016-  
00008)
5. A synthetic minor source - General Motors Corporation  
Powertrain (permit no. T093-5652-00007)

**File Review Results.**

**Category 1: Toyota Motor Manufacturing**

- Y  N  1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount?
2. Contain the following emissions-related information:
- Y  N  a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?
- Y  N  b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability?
- Y  N  c. Identification and description of air pollution control equipment and compliance monitoring devices or activities?
3. Contain the following air pollution control requirements:
- Y  N  a. Citation and description of all applicable requirements?
- Y  N  b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?
- Y  N  4. Include an explanation of any proposed exemptions from otherwise applicable requirements? **NA**
5. Contain a compliance plan that contains all the following:

- Y  N  a. A description of the compliance status of the source with respect to all applicable requirements?
- b. A description as follows:
- Y  N  i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements?
- Y  N  ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis?
- Y  N  iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements? **NA**
- c. A compliance schedule as follows:
- Y  N  i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. **NA**
- Y  N  ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.
- Y  N  d. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation?

6. Include a requirement for compliance certification that contains:

- Y  N  a. A certification of compliance with all applicable requirements by a responsible official?
- Y  N  b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods? **Unable to locate.**
- Y  N  c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act? **NA**
- Y  N  7. General permits only - Are the eligibility criteria clear? **NA**
- Y  N  8. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)
- Y  N  9. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.)
- Y  N  a. General permits only - Are there sources that are authorized to operate under a general permit that have source specific requirements not included in the general permit (or in another

permit, if multiple permits are issued) (e.g., NSR permit terms; compliance schedules). **NA**

Y  N

b. Are all SIP requirements applicable to the sources included in the permit?

Y  N

c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?

Y  N

d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?

Y  N

10. Does the permit describe the origin and authority of each term and condition?

11. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):

Y  N

Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable

Y  N

Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application

Y  N

Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a permittee in an enforcement action that it would have

been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit

Y  N  Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition

Y  N  No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege

Y  N  Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality

Y  N  Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

Y  N  Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule

Y  N  Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit

Y  N  Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Y  N  Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and USEPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

(I) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

(Note: depending on the PA's approved certification rule, a different compliance certification may be appropriate.)

Y  N  Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal?

Note: Permit term of up to 5 years for most sources; fixed term of 5 years for acid rain sources; up to 12 years (with a 5 year review) allowed for solid waste incineration units combusting municipal waste subject to §129(e) standards.

Y  N  Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by USEPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable .

Note: Terms and conditions must be designated as not federally enforceable (i.e. "state only") if they are not required under the Clean Air Act or under any of its implementing regulations.

Y  N  Permit shield (§70.6(f)).<sup>2</sup>

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<sup>2</sup>Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of USEPA to obtain information from a source pursuant to section 114 of the Act.

Y  N  Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.<sup>3</sup> Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

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<sup>3</sup>Reopening is required in such a case only for major sources.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or USEPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Y  N  12. Does the permit contain all monitoring required by applicable requirements?

Y  N  13. Does the permit have sufficient monitoring (i.e., monitoring added through periodic monitoring or 70.6(c)(1) authority) to assure compliance with all applicable requirements as required by the Act<sup>4</sup>?

Y  N  14. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

Y  N  a. indicator(s) to be monitored; **NA**

Y  N  b. the means or device to be used to measure the indicators; **NA**

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<sup>4</sup> The term "monitoring sufficient to assure compliance" means adequate monitoring required by the underlying standard, CAM, periodic monitoring under 70.6(a)(3)(i)(B), sufficiency monitoring under 70.6(c)(1), or if no additional monitoring is required, a justification in the statement of basis that no additional monitoring is appropriate.

- Y  N  c. performance requirements; **NA**
- Y  N  d. means by which an exceedance or excursion is defined; **NA**
- Y  N  e. obligation to conduct the monitoring and fulfill the other obligations specified in §§ 64.7 through 64.9; **NA**
- Y  N  f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirements for the averaging periods in a reporting period; **NA**
- Y  N  g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and **NA**
- Y  N  h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.] **NA**
- Y  N  15. Does the permit contain adequate record keeping requirements, such as:
- Y  N  a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring; **Not explicitly.**
- Y  N  b. the date(s) analyses were performed;
- Y  N  c. the company or entity that performed the analyses;
- Y  N  d. the analytical techniques or methods used;
- Y  N  e. the results of such analyses; and
- Y  N  f. the operating conditions as existing at the time of sampling or measurement?

- Y  N  16. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?
- Y  N  17. Does the permit specify a specific time frame for completing the corrective action?
- Y  N  18. Does the permit specify a specific time by which any new monitoring must be operational?
- Y  N  19. Is anti-credible evidence buster language included in the permit? **In 2004, IDEM started incorporating this language into all issued permits.**
- Y  N  20. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.
- Y  N  21. Are monitoring plans and records for this permit accessible to the public?
- Y  N  22. Did the permit go out to public notice?
- Y  N  23. Were the affected State(s) (if any) notified of this permit?
- Y  N  24. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?

**Category 2: Indian Industries, Inc.**

Y  N  1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount?

2. Contain the following emissions-related information:

Y  N  a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?

Y  N  b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability?

Y  N  c. Identification and description of air pollution control equipment and compliance monitoring devices or activities?

3. Contain the following air pollution control requirements:

Y  N  a. Citation and description of all applicable requirements?

Y  N  b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?

Y  N  4. Include an explanation of any proposed exemptions from otherwise applicable requirements?

5. Contain a compliance plan that contains all the following:

- Y  N  a. A description of the compliance status of the source with respect to all applicable requirements?
- b. A description as follows:
- Y  N  i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements? **Unable to locate.**
- Y  N  ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis? **Unable to locate.**
- Y  N  iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements? **NA**
- c. A compliance schedule as follows:
- Y  N  i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance.
- Y  N  ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.
- Y  N  d. A schedule for submission of certified progress reports no less frequently than every 6

months for sources required to have a schedule of compliance to remedy a violation?

6. Include a requirement for compliance certification that contains:

Y  N

a. A certification of compliance with all applicable requirements by a responsible official?

Y  N

b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods?

Y  N

c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act? **NA**

Y  N

7. General permits only - Are the eligibility criteria clear? **NA**

Y  N

8. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)

Y  N

9. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.)

Y  N

a. General permits only - Are there sources that are authorized to operate under a general permit that have source specific requirements not

included in the general permit (or in another permit, if multiple permits are issued) (e.g., NSR permit terms; compliance schedules). **NA**

- Y  N  b. Are all SIP requirements applicable to the sources included in the permit?
- Y  N  c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  10. Does the permit describe the origin and authority of each term and condition?
11. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):
- Y  N  Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable
- Y  N  Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application
- Y  N  Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a

permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit

Y  N  Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition

Y  N  No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege

Y  N  Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality

Y  N  Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

- Y  N  Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule
- Y  N  Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit
- Y  N  Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- Y  N  Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and USEPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

(I) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

(Note: depending on the PA's approved certification rule, a different compliance certification may be appropriate.)

Y  N  Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal?

Note: Permit term of up to 5 years for most sources; fixed term of 5 years for acid rain sources; up to 12 years (with a 5 year review) allowed for solid waste incineration units combusting municipal waste subject to §129(e) standards.

Y  N  Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by USEPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable .

Note: Terms and conditions must be designated as not federally enforceable (i.e. "state only") if they are not required under the Clean Air Act or under any of its implementing regulations.

Y  N  Permit shield (§70.6(f)).<sup>5</sup>

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<sup>5</sup>Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of USEPA to obtain information from a source pursuant to section 114 of the Act.

Y  N  Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.<sup>6</sup> Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if

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under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

<sup>6</sup>Reopening is required in such a case only for major sources.

effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or USEPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Y  N  12. Does the permit contain all monitoring required by applicable requirements?

Y  N  13. Does the permit have sufficient monitoring (i.e., monitoring added through periodic monitoring or 70.6(c)(1) authority) to assure compliance with all applicable requirements as required by the Act<sup>7</sup>?

Y  N  14. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

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<sup>7</sup> The term "monitoring sufficient to assure compliance" means adequate monitoring required by the underlying standard, CAM, periodic monitoring under 70.6(a)(3)(i)(B), sufficiency monitoring under 70.6(c)(1), or if no additional monitoring is required, a justification in the statement of basis that no additional monitoring is appropriate.

- Y  N  a. indicator(s) to be monitored;
- Y  N  b. the means or device to be used to measure the indicators;
- Y  N  c. performance requirements;
- Y  N  d. means by which an exceedance or excursion is defined;
- Y  N  e. obligation to conduct the monitoring and fulfill the other obligations specified in §§64.7 through 64.9;
- Y  N  f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirements for the averaging periods in a reporting period; **NA**
- Y  N  g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and **NA**
- Y  N  h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.]
- Y  N  15. Does the permit contain adequate record keeping requirements, such as:
- Y  N  a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring;
- Y  N  b. the date(s) analyses were performed;
- Y  N  c. the company or entity that performed the analyses;

- Y  N  d. the analytical techniques or methods used;
- Y  N  e. the results of such analyses; and
- Y  N  f. the operating conditions as existing at the time of sampling or measurement?
- Y  N  16. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?
- Y  N  17. Does the permit specify a specific time frame for completing the corrective action?
- Y  N  18. Does the permit specify a specific time by which any new monitoring must be operational?
- Y  N  19. Is anti-credible evidence buster language included in the permit?
- Y  N  20. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.
- Y  N  21. Are monitoring plans and records for this permit accessible to the public?
- Y  N  22. Did the permit go out to public notice?
- Y  N  23. Were the affected State(s) (if any) notified of this permit?
- Y  N  24. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?

**Category 3: Lehigh Portland Cement Company**

Y  N  1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount?

2. Contain the following emissions-related information:

Y  N  a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?

Y  N  b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability?

Y  N  c. Identification and description of air pollution control equipment and compliance monitoring devices or activities?

3. Contain the following air pollution control requirements:

Y  N  a. Citation and description of all applicable requirements?

Y  N  b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?

Y  N  4. Include an explanation of any proposed exemptions from otherwise applicable requirements?

5. Contain a compliance plan that contains all the following:

- Y  N  a. A description of the compliance status of the source with respect to all applicable requirements?
- b. A description as follows:
- Y  N  i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements?
- Y  N  ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis?
- Y  N  iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements? **NA**
- c. A compliance schedule as follows:
- Y  N  i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. **NA**
- Y  N  ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.
- Y  N  d. A schedule for submission of certified progress reports no less frequently than every 6

months for sources required to have a schedule of compliance to remedy a violation? **NA**

6. Include a requirement for compliance certification that contains:

- Y  N  a. A certification of compliance with all applicable requirements by a responsible official?
- Y  N  b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods?
- Y  N  c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act? **NA**
- Y  N  7. General permits only - Are the eligibility criteria clear? **NA**
- Y  N  8. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)
- Y  N  9. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.)
- Y  N  a. General permits only - Are there sources that are authorized to operate under a general permit that have source specific requirements not

included in the general permit (or in another permit, if multiple permits are issued) (e.g., NSR permit terms; compliance schedules). **NA**

- Y  N  b. Are all SIP requirements applicable to the sources included in the permit?
- Y  N  c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  10. Does the permit describe the origin and authority of each term and condition?
11. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):
- Y  N  Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable
- Y  N  Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application
- Y  N  Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a

permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit

Y  N  Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition

Y  N  No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege

Y  N  Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality

Y  N  Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

Y  N  Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule

Y  N  Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit

Y  N  Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Y  N  Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and USEPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

(I) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

(Note: depending on the PA's approved certification rule, a different compliance certification may be appropriate.)

Y  N  Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal?

Note: Permit term of up to 5 years for most sources; fixed term of 5 years for acid rain sources; up to 12 years (with a 5 year review) allowed for solid waste incineration units combusting municipal waste subject to §129(e) standards.

Y  N  Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by USEPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable .

Note: Terms and conditions must be designated as not federally enforceable (i.e. "state only") if they are not required under the Clean Air Act or under any of its implementing regulations.

Y  N  Permit shield (§70.6(f)).<sup>8</sup>

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<sup>8</sup>Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of USEPA to obtain information from a source pursuant to section 114 of the Act.

Y  N  Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.<sup>9</sup> Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if

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under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

<sup>9</sup>Reopening is required in such a case only for major sources.

effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or USEPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Y  N  12. Does the permit contain all monitoring required by applicable requirements?

Y  N  13. Does the permit have sufficient monitoring (i.e., monitoring added through periodic monitoring or 70.6(c)(1) authority) to assure compliance with all applicable requirements as required by the Act<sup>10</sup>?

Y  N  14. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

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<sup>10</sup> The term "monitoring sufficient to assure compliance" means adequate monitoring required by the underlying standard, CAM, periodic monitoring under 70.6(a)(3)(i)(B), sufficiency monitoring under 70.6(c)(1), or if no additional monitoring is required, a justification in the statement of basis that no additional monitoring is appropriate.

- Y  N  a. indicator(s) to be monitored; **NA**
- Y  N  b. the means or device to be used to measure the indicators; **NA**
- Y  N  c. performance requirements; **NA**
- Y  N  d. means by which an exceedance or excursion is defined; **NA**
- Y  N  e. obligation to conduct the monitoring and fulfill the other obligations specified in §§64.7 through 64.9; **NA**
- Y  N  f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirements for the averaging periods in a reporting period; **NA**
- Y  N  g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and **NA**
- Y  N  h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.] **NA**
- Y  N  15. Does the permit contain adequate record keeping requirements, such as:
- Y  N  a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring;
- Y  N  b. the date(s) analyses were performed;
- Y  N  c. the company or entity that performed the analyses;
- Y  N  d. the analytical techniques or methods used;

- Y  N  e. the results of such analyses; and
- Y  N  f. the operating conditions as existing at the time of sampling or measurement?
- Y  N  16. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?
- Y  N  17. Does the permit specify a specific time frame for completing the corrective action?
- Y  N  18. Does the permit specify a specific time by which any new monitoring must be operational?
- Y  N  19. Is anti-credible evidence buster language included in the permit? **\*IDEM has started including in 2004.**
- Y  N  20. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.
- Y  N  21. Are monitoring plans and records for this permit accessible to the public?
- Y  N  22. Did the permit go out to public notice?
- Y  N  23. Were the affected State(s) (if any) notified of this permit?
- Y  N  24. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?

**Category 4: Essroc Cement Corporation**

Y  N  1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount?

2. Contain the following emissions-related information:

Y  N  a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?

Y  N  b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability? **Format rather confusing though.**

Y  N  c. Identification and description of air pollution control equipment and compliance monitoring devices or activities? **Separate forms for each control device.**

3. Contain the following air pollution control requirements:

Y  N  a. Citation and description of all applicable requirements?

Y  N  b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?

Y  N  4. Include an explanation of any proposed exemptions from otherwise applicable requirements? **NA**

5. Contain a compliance plan that contains all the following:

- Y  N  a. A description of the compliance status of the source with respect to all applicable requirements?
- b. A description as follows:
- Y  N  i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements?
- Y  N  ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis?
- Y  N  iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements?
- c. A compliance schedule as follows:
- Y  N  i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance.
- Y  N  ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.
- Y  N  d. A schedule for submission of certified progress reports no less frequently than every 6

months for sources required to have a schedule of compliance to remedy a violation?

6. Include a requirement for compliance certification that contains:

Y  N

a. A certification of compliance with all applicable requirements by a responsible official?

Y  N

b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods?

Y  N

c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act?

Y  N

7. General permits only - Are the eligibility criteria clear? **NA**

Y  N

8. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)

Y  N

9. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.) **Permit too large to completely review, but generally yes.**

Y  N

a. General permits only - Are there sources that are authorized to operate under a general permit

that have source specific requirements not included in the general permit (or in another permit, if multiple permits are issued) (e.g., NSR permit terms; compliance schedules). **NA**

- Y  N  b. Are all SIP requirements applicable to the sources included in the permit?
- Y  N  c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  10. Does the permit describe the origin and authority of each term and condition?
11. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):
- Y  N  Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable
- Y  N  Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application

- Y  N  Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit
- Y  N  Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition
- Y  N  No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege
- Y  N  Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality
- Y  N  Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:
- (i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

Y  N  Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule

Y  N  Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit

Y  N  Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Y  N  Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and USEPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

(I) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

(Note: depending on the PA's approved certification rule, a different compliance certification may be appropriate.)

Y  N  Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal?

Note: Permit term of up to 5 years for most sources; fixed term of 5 years for acid rain sources; up to 12 years (with a 5 year review) allowed for solid waste incineration units combusting municipal waste subject to §129(e) standards.

Y  N  Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by USEPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable .

Note: Terms and conditions must be designated as not federally enforceable (i.e. "state only") if they are not required under the Clean Air Act or under any of its implementing regulations.

Y  N  Permit shield (§70.6(f)).<sup>11</sup>

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<sup>11</sup>Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of USEPA to obtain information from a source pursuant to section 114 of the Act.

Y  N  Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.<sup>12</sup> Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if

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under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

<sup>12</sup>Reopening is required in such a case only for major sources.

effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or USEPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Y  N  12. Does the permit contain all monitoring required by applicable requirements?

Y  N  13. Does the permit have sufficient monitoring (i.e., monitoring added through periodic monitoring or 70.6(c)(1) authority) to assure compliance with all applicable requirements as required by the Act<sup>13</sup>?

Y  N  14. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

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<sup>13</sup> The term "monitoring sufficient to assure compliance" means adequate monitoring required by the underlying standard, CAM, periodic monitoring under 70.6(a)(3)(i)(B), sufficiency monitoring under 70.6(c)(1), or if no additional monitoring is required, a justification in the statement of basis that no additional monitoring is appropriate.

- Y  N  a. indicator(s) to be monitored; **NA**
- Y  N  b. the means or device to be used to measure the indicators; **NA**
- Y  N  c. performance requirements; **NA**
- Y  N  d. means by which an exceedance or excursion is defined; **NA**
- Y  N  e. obligation to conduct the monitoring and fulfill the other obligations specified in §§64.7 through 64.9; **NA**
- Y  N  f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirements for the averaging periods in a reporting period; **NA**
- Y  N  g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and **NA**
- Y  N  h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.] **NA**
- Y  N  15. Does the permit contain adequate record keeping requirements, such as:
- Y  N  a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring; **Not explicitly, but would be in protocol submitted to IDEM.**
- Y  N  b. the date(s) analyses were performed;
- Y  N  c. the company or entity that performed the analyses;

- Y  N  d. the analytical techniques or methods used;
- Y  N  e. the results of such analyses; and
- Y  N  f. the operating conditions as existing at the time of sampling or measurement?
- Y  N  16. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?
- Y  N  17. Does the permit specify a specific time frame for completing the corrective action?
- Y  N  18. Does the permit specify a specific time by which any new monitoring must be operational?
- Y  N  19. Is anti-credible evidence buster language included in the permit?
- Y  N  20. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.
- Y  N  21. Are monitoring plans and records for this permit accessible to the public?
- Y  N  22. Did the permit go out to public notice?
- Y  N  23. Were the affected State(s) (if any) notified of this permit?
- Y  N  24. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?

**Category 5: General Motors Corporation Powertrain**

Y  N  1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount? **NA - None.**

2. Contain the following emissions-related information:

Y  N  a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?

Y  N  b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability?

Y  N  c. Identification and description of air pollution control equipment and compliance monitoring devices or activities?

3. Contain the following air pollution control requirements:

Y  N  a. Citation and description of all applicable requirements?

Y  N  b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?

Y  N  4. Include an explanation of any proposed exemptions from otherwise applicable requirements?

5. Contain a compliance plan that contains all the following:

- Y  N
- a. A description of the compliance status of the source with respect to all applicable requirements?
- b. A description as follows:
- Y  N
- i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements?
- Y  N
- ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis?
- Y  N
- iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements? **NA**
- c. A compliance schedule as follows:
- Y  N
- i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. **NA**
- Y  N
- ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.
- Y  N
- d. A schedule for submission of certified progress reports no less frequently than every 6

months for sources required to have a schedule of compliance to remedy a violation?

6. Include a requirement for compliance certification that contains:

Y  N

a. A certification of compliance with all applicable requirements by a responsible official?

Y  N

b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods?

Y  N

c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act?

Y  N

7. General permits only - Are the eligibility criteria clear? **NA**

Y  N

8. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)

Y  N

9. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.)

Y  N

a. General permits only - Are there sources that are authorized to operate under a general permit that have source specific requirements not

included in the general permit (or in another permit, if multiple permits are issued) (e.g., NSR permit terms; compliance schedules). **NA**

- Y  N  b. Are all SIP requirements applicable to the sources included in the permit?
- Y  N  c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?
- Y  N  10. Does the permit describe the origin and authority of each term and condition?
11. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):
- Y  N  Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable
- Y  N  Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application
- Y  N  Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a

permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit

Y  N  Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition

Y  N  No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege

Y  N  Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality

Y  N  Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

- Y  N  Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule
- Y  N  Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit
- Y  N  Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- Y  N  Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and USEPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

(I) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

(Note: depending on the PA's approved certification rule, a different compliance certification may be appropriate.)

Y  N  Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal?

Note: Permit term of up to 5 years for most sources; fixed term of 5 years for acid rain sources; up to 12 years (with a 5 year review) allowed for solid waste incineration units combusting municipal waste subject to §129(e) standards.

Y  N  Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by USEPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable .

Note: Terms and conditions must be designated as not federally enforceable (i.e. "state only") if they are not required under the Clean Air Act or under any of its implementing regulations.

Y  N  Permit shield (§70.6(f)).<sup>14</sup>

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<sup>14</sup>Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of USEPA to obtain information from a source pursuant to section 114 of the Act.

Y  N  Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.<sup>15</sup> Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if

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under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

<sup>15</sup>Reopening is required in such a case only for major sources.

effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or USEPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Y  N  12. Does the permit contain all monitoring required by applicable requirements?

Y  N  13. Does the permit have sufficient monitoring (i.e., monitoring added through periodic monitoring or 70.6(c)(1) authority) to assure compliance with all applicable requirements as required by the Act<sup>16</sup>?

Y  N  14. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

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<sup>16</sup> The term "monitoring sufficient to assure compliance" means adequate monitoring required by the underlying standard, CAM, periodic monitoring under 70.6(a)(3)(i)(B), sufficiency monitoring under 70.6(c)(1), or if no additional monitoring is required, a justification in the statement of basis that no additional monitoring is appropriate.

- Y  N  a. indicator(s) to be monitored; **NA**
- Y  N  b. the means or device to be used to measure the indicators; **NA**
- Y  N  c. performance requirements; **NA**
- Y  N  d. means by which an exceedance or excursion is defined; **NA**
- Y  N  e. obligation to conduct the monitoring and fulfill the other obligations specified in §§64.7 through 64.9; **NA**
- Y  N  f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirements for the averaging periods in a reporting period; **NA**
- Y  N  g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and **NA**
- Y  N  h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.] **NA**
- Y  N  15. Does the permit contain adequate record keeping requirements, such as:
- Y  N  a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring;
- Y  N  b. the date(s) analyses were performed;
- Y  N  c. the company or entity that performed the analyses;
- Y  N  d. the analytical techniques or methods used;

- Y  N  e. the results of such analyses; and
- Y  N  f. the operating conditions as existing at the time of sampling or measurement?
- Y  N  16. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?
- Y  N  17. Does the permit specify a specific time frame for completing the corrective action?
- Y  N  18. Does the permit specify a specific time by which any new monitoring must be operational?
- Y  N  19. Is anti-credible evidence buster language included in the permit? **\*IDEM has started including in 2004.**
- Y  N  20. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.
- Y  N  21. Are monitoring plans and records for this permit accessible to the public?
- Y  N  22. Did the permit go out to public notice?
- Y  N  23. Were the affected State(s) (if any) notified of this permit?
- Y  N  24. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?