

Title V Program Evaluation

Title V Document Reviews

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What To Look For in Applications

Do original and renewal applications in general:

- 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?
 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?

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?

What To Look For In Permits

- Y N 7. **General permits only** - Are the eligibility criteria clear? Attach.
- 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.)
- 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).
- 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 EPA 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 EPA 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)).¹

(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 EPA 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 :

¹Not 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).

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years.² 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.

(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 EPA 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 Act³?

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;

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;

²Reopening is required in such a case only for major sources.

³ 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 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;
- 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
- 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 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?

What To Look For In the Statement of Basis

- 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?