

## 1. Gap Filling Monitoring

- a. Please provide two examples of any permit review reports (“PRR”) written since the last audit, which identify and document the rationale for gap-filling monitoring requirements included in the permit. Please specify the relevant PRR page number(s) that present the gap-filling monitoring rationale.
  1. Please see pages 29 and 30 of the PRR for Keymark Corporation.
  2. Please see page 66 of the PRR for RED Rochester LLC
- b. Please provide the condition number(s) related to the two examples specified above where gap-filling monitoring requirements were added to the permit since the last audit.
  1. Please see conditions 31, 75, and 77 of the Title V permit for Keymark Corporation.
  2. Please see condition 25 of the Title V permit for RED Rochester LLC

## 2. Emission Limitations on the Potential to Emit (Capping Limits)

- a. Please provide two examples of PRRs written since the last audit which identify and document the rationale for the capping limits included in the permit. Please specify the PRR page number that include capping limit monitoring rationale.
  1. Please see page 33 of the PRR for Knowlton Technologies LLC
  2. Please see pages 18 and 19 of the PRR for Flexo Transparent LLC
- b. Please provide the condition number(s) related to the two examples specified above where capping limits were added to the permit since the last audit.
  1. Please see condition 50 of the Title V permit for Knowlton Technologies LLC
  2. Please see conditions 25 and 26 of the Title V permit for Flexo Transparent LLC

## 3. Title V Fee Program

- a. Since the last audit, were there any changes made to the title V fee program? Is NYSDEC still applying the 2015 graduated per ton fee schedule and the \$2,500 base fee?

There have been no changes to the Title V fee structure since the last audit. The 2015 graduated per ton fee schedule and the \$2,500 base fee are still in place.
- b. What is the title V program’s cumulative deficit as of the date of the NYSDEC response to this questionnaire?

The actual Operating Permit Account deficit as of April 1, 2022, was \$37,762,135. The projected March 31, 2023, cumulative deficit is \$42,750,634.

- c. Please describe the actions that NYSDEC has taken since the last audit for ensuring that the title V program expenses are covered solely by the title V emissions-based fee revenues.

The Title V fees must be changed through legislative action. The DEC makes annual requests to amend the Title V fee legislation. The requests are for increases in an amount that would fully fund the NY OPP. The NYS Legislature has not acted on any of these proposals since the 2015 increase.

- d. Please describe which ones of the revenue generating ideas presented in the last audit report (or any other title V revenue generating ideas) has the NYSDEC explored to determine their appropriateness for the NYSDEC to adopt?

NYSDEC has determined a more appropriate fee structure, based on an increased base fee as well as an increase in the per ton emission fees. This has been proposed, however the decision regarding the Title V fee structure resides with the NYS Legislature.

- e. Please provide a copy of the Department of Health reports submitted to NYSDEC since 2019 showing how their activities that were paid for by the title V funds relate to the title V permitting program.

The requested reports are attached.

- f. Please confirm that since the last audit, the NYSDEC has continued to use money from the State General Fund to cover the title V program expenses that cannot be paid by the title V fees.

State General Funds and monies borrowed from the Statewide Transportation Improvement Program (STIP) have been used to cover the remaining Title V expenses beyond the fees collected.

- g. Please provide the information indicated in the following table:

Table 1 – Operating Permit Program (“OPP”) Cost Information -State Fiscal Year (“SFY”)2018/2019 through 2021/2022

Sate Fiscal Year	SFY 2018/2019	SFY 2019/2020	SFY 2020/2021	SFY 2021/2022
Total number of title V Sources which paid fees	358	348	345	332
Annual Emissions (tons) for which fees were paid	52,201.73	43,097.54	41,069.85	44,454.88
No. of Full Time Employees who perform title V permitting work and are paid from OPP account.	33	31	28	22
Total Annual Fees Revenue Collected from title V Sources “R”, which are a combination of per ton fee and a \$2,500 base fee.	\$3,669,307	\$3,743,363	\$3,676,390	\$3,902,776
OPP Total Expenses or “TE”	\$16,534,000	\$13,603,000	\$12,844,000	\$12,288,000
Difference Between “R” and “TE”	-\$12,86,693	-\$9,859,537	-\$9,167,610	-\$8,385,224

- h. What is the current (as of the date of the DEC response to this questionnaire) percentage of title V permit applications that are awaiting a final action beyond their applicable deadline(s), or “backlogged?”

There are currently 202 outstanding Title V permit renewals (58% of Title V permits). In addition, there are 64 active applications for permit modification and 5 new Title V permits currently in process. As discussed during the previous audit, DEC’s priority continues to be permit modifications and new permits.

- i. Please describe the steps that NYSDEC has taken since the last audit to improve its title V permit issuance rate.

As discussed during the previous audit, DEC continues to lose experienced staff to retirement. In recent months, DEC has been having difficulty onboarding new staff to fill these vacancies. To resolve these staffing issues, DEC has formed an agency-wide group tasked with expanding recruitment efforts by attending college career fairs and increasing awareness of the technical positions available with the agency. The Division of Air Resources (DAR) is an active participant in this effort and has worked with partners in NACAA and NESCAUM to post available positions on their websites. DAR is also aware of similar issues occurring at its sister agencies in other states and EPA regions.

DAR has expanded its efforts to provide guidance and training for new staff that have

been hired since the previous audit. This effort is intended to expand their knowledge of various topics related to permitting and other related activities to improve their ability to process permit applications in a timely manner. In addition, DAR has restarted its permit QA program so that experienced staff can provide feedback on working copy permits prior to public noticing.

DAR continues to pursue the replacement of its outdated permitting software. In early 2020, a contractor was engaged to conduct an analysis of the current system and develop a report identifying vulnerabilities, detailing needed improvements, and discussing available options for replacement. That effort has concluded, and the report has been provided to executive level staff as justification for the needed funding. To date, DAR has not been allocated the necessary funding despite repeated requests.

#### **4. Permit Review Report Content**

Please provide two examples of any PRRs that were written since the last audit that contain an explanation of the applicability and non-applicability of federal standards. Please specify the relevant PRR page number(s) that present the applicability and non-applicability of federal standards discussion.

1. Please see page 29 of the PRR for Keymark Corporation.
2. Please see pages 22 – 25 of the PRR for FCINA, Inc.

#### **5. Compliance Assurance Monitoring (“CAM”)**

- a. Please provide two examples of any title V permits that include CAM requirements which were added to the permits since the last audit. Please specify the conditions number for those CAM requirements.

1. Please see Condition 46 in the Title V permit for Flexo Transparent LLC
2. Please see Condition 54 in the Title V permit for Corning Incorporated – Canton Plant

- b. Also, please provide the PRRs corresponding to the two permits described above. Please indicate the PRR page numbers that include the CAM related discussion.

1. Please see page 19 of the PRR for Flexo Transparent LLC
2. Please see page 27 of the PRR for Corning Incorporated – Canton Plant

- c. Please describe the process that is used by the permit writers to determine if CAM is necessary?

Permit writers rely on the applicability criteria of 40 CFR Part 64 to determine whether CAM is applicable to a given emission source. In particular, the list of exemptions at 40 CFR 64.2(b) is often consulted when initially reviewing an emission source for potential CAM applicability. In DEC’s experience, many emission sources qualify for one or more of the listed exemptions and are not subject to the requirements of CAM.

- d. What is the approximate number of sources that now have CAM monitoring in their permits?

There are approximately 52 permits that currently contain CAM requirements.

- e. Has the Department ever disapproved a source's proposed CAM plan?

DEC is not aware of a CAM plan that was formally disapproved. As needed, permit writers request the additional information from the applicant that is necessary to make the proposed CAM plan approvable. It's worth noting that DEC recognizes that a permit should not be issued to a facility for which CAM applies absent an approvable CAM plan.

## 6. Monitoring in title V permits

- a. Please describe how does the NYSDEC ensure that the title V permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3)) if monitoring is not specified in the underlying standard or CAM?

Permit writers often collaborate with each other and Central Office staff to discuss similar emission sources and processes to ensure consistent requirements across permits for similar facilities. In addition, staff rely on engineering judgement, experience, technical documentation, and knowledge of the processes and equipment being regulated to set appropriate limits. Last, permit writers consult EPA guidance, DEC training, and DEC program policy (such as DAR-17, Federal Enforceability of Air Pollution Control Permits) to develop permit conditions that are practically enforceable.

- b. Has NYSDEC developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance.

DEC has developed a process for developing Technical Guidance Memorandums (TGM) which provide internal guidance on a specific technical issue. Several TGMs have been developed discussing certain internal processes. One such memo specifically touches on regulatory and permitting issues surrounding flares. A copy of the TGM is attached.

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

DEC has developed a two-part permitting training class which discusses topics such as developing practically enforceable permit conditions, federally enforceable emission caps and conditions, and other permitting topics. DEC has also developed training on PSD and NSR applicability and related topics. These trainings were

presented via webinar and recorded for future viewing. In addition, the presenter's slides are available on DAR's internal webpage for staff to access at any time. DEC also encourages staff to attend training courses offered by NESCAUM and other providers on a wide variety of permitting topics as they become available. Lastly, DEC is in the process of developing additional training for permit writers that will focus on the development of permit conditions in greater detail.

## **7. Documenting Changes Made in Permit Modifications**

Please provide three examples of PRRs and Public Notices for permit revisions that were written since the last audit. Please indicate the page number and/or section that include the relevant description(s) identifying the permit revisions.

1. Please see pages 1 – 2 of the PRR for Globe Metallurgical Inc and the associated public notice text.
2. Please see pages 1 – 2 and 20 – 22 of the PRR for Starrett City Power Plant and the associated public notice text.
3. Please see pages 1 and 152 – 154 of the PRR for Momentive Performance Materials and the associated public notice text.

## **8. Title V Permit Renewals**

Please provide two examples of title V permit renewal applications submitted since the last audit that the NYSDEC considers are good examples of title V renewal applications that meet the 6 NYCRR 201-6.2 and 40 CFR § 70.5 application content requirements.

1. Please see the renewal application for FCINA, Inc.
2. Please see the renewal application for Tennessee Gas Pipeline Company – Compressor Station 233

## **9. Insignificant (Exempt) Activities (Emission Sources)**

Please provide three examples of any title V permit applications submitted since the last audit which the NYSDEC considered to have contained the necessary information for determining what requirements (i.e., federal standards) apply to the insignificant or exempt emission sources. Please specify the relevant application page number(s) that include the above-described information.

1. Please see pages 174 – 180 of the renewal application for FCINA, Inc.
2. Please see pages 38 – 43 of the renewal application for Tennessee Gas Pipeline Company – Compressor Station 233
3. Please see pages 59 – 65 of the renewal application for Lehigh Cement Company, LLC

## **10. Public Participation**

a. Draft Title V Permit Modification for Public Comment

- i. When public noticing draft title V permit modifications or revisions, how does NYSDEC identify which portions of the permit are being revised? (e.g., include a narrative description of change, specify the condition number, etc.). Please explain and provide specific examples.

When public noticing a significant modification to a Title V permit, the draft permit posted on the DEC website for public review is the ‘changes only’ version of the permit. This document only shows items which have been added, changed, or removed because of the proposed project. In addition, the public notice itself contains a description of the project which includes a summary of the changes to the permit. Please see the response to Item 7 above for specific examples.

- ii. Also, how does NYSDEC clarify in the public notice that only the revisions are subject to comment? Please explain and provide specific examples.

DEC does not include specific language in the public notice indicating that only the changes are subject to comment. Please see the response to Items 7 and 10.a.i above for further detail and specific examples.

b. Availability of Permit Related Documents During Public Review

- i. What is NYSDEC’s procedures for the public to obtain permit-related information (e.g., permit applications, deviation reports, etc.,) especially during the public comment period?

DEC follows the procedures outlined in 6 NYCRR Part 616 – Public Access to Records and the provisions of the state’s Freedom of Information Law (FOIL). For permit applications that require a public comment period, each public notice released by DEC contains the contact information (name, address, phone number, and e-mail) for the appropriate person to provide additional information or documents related to that action. Once contacted, that person would coordinate a response with the permit writer and any other necessary staff as soon as possible. During a public comment period, application documents are generally provided to requestors without the need to go through the formal FOIL process. Some related documents may also be publicly available by posting on DEC’s website during the comment period (e.g. draft Title V permits and PRRs).

- ii. How long does it typically take to respond to requests for permit-related information during the public comment period?

Depending on the information requested and the format responsive records are available in, a response is typically provided quickly, on the same day or within a

couple days. However, certain issues such as claims of confidentiality surrounding certain information can delay the response until they are resolved.

- iii. Who is responsible for providing that information to the public?

The Regional Permit Administrator in the Division of Environmental Permits (DEP) and/or their assigned staff are responsible for providing this information for applications that are subject to a public comment period. However, responsive information is often gathered in consultation with the staff in other divisions (e.g. DAR).

- iv. Have comments been received on the availability (or non-availability) of such information from the public?

Yes. In some cases, the public may be looking for information that is outside the scope of a current application, either because it relates to another DEC permit or relates to information from a prior permit review.

- v. Has NYSDEC ever extended the public comment period due to the public's delay in receiving all available information?

Within limits, DEC may grant extensions of comment periods for a variety of reasons. However, DEC has hearing and final decision time frames in the Uniform Procedures Act regulations (6 NYCRR Part 621) that limit such extensions without the mutual consent of the applicant particularly where a 30-day comment period is already required. Within those limits, DEC, at its own discretion, may grant an extension of typically one to two weeks. Extensions that would exceed DEC's hearing and final decision time frames require the mutual consent of the applicant.

Public comment periods are also extended when the required newspaper notice is not published by the applicant in the same week as the notice DEC publishes in the Environmental Notice Bulletin (ENB) due to lack of attention from the applicant or intermittent publication schedules for the local paper. If, for example, the newspaper notice was published one week after the ENB notice, the comment period would close one week later than originally anticipated.

- vi. Is NYSDEC considering or working on developing a web access system to expand the types of permit-related documents made available for the public? If so, please explain.

The DEC Info Locator tool (<https://gisservices.dec.ny.gov/gis/dil/>) provides access to certain permit-related documents and information online. For Title V facilities, the available data includes a summary of the facility's emissions, the current permit, and the current PRR. A link is also provided



to Open Data NY which contains annual emission statement information dating back to 2010. DEC is not currently able to make documents such as permit applications, monitoring reports, and other data available online. However, such records are available to interested parties upon request during a public comment period, or through the state's FOIL process.

- vii. Does NYSDEC charge the public for copies of permit-related documents? What is the cost?

Paper copies of documents are available for \$0.25 per page. There is no charge for electronic copies. In addition, interested parties may make an appointment to view paper records to determine if copies are needed at no cost.

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

Please see the response to Item 10.b.vii above.

## **11. Application Processing – Quality Assurance**

Does NYSDEC have a process for quality assuring the regulatory content of your permits before issuance? Please explain the process and how it is implemented

DEC developed and implemented a Permit QA program in early 2020 (similar to a prior DAR permit QA program that ended a decade or so ago due to limited resources) which reviews the content of submitted working copy permits and PRRs for consistency with DEC permitting practices and applicable state and federal requirements. To take advantage of this program, permit writers reach out to DEC's central office to initiate review. The subject permit is assigned to available staff for review, and feedback is provided directly to the permit writer. Once received, the permit writer works with the reviewer to make any necessary changes to the working copy permit before proceeding to public notice. While this program was originally conceived on a voluntary basis to gauge the potential workload for reviewers, DEC has recently begun discussing making the process a formal requirement for permit writers.

## **12. Streamline in title V permits**

- a. Does NYSDEC utilize any streamlining strategies in preparing permits such as streamlining multiple applicable requirements on the same emission unit (i.e., listing the requirements of the most stringent applicable requirements)? If so, please describe the streamlining process being implemented.

When streamlining permit conditions, DEC reviews all applicable requirements and only includes the most stringent applicable requirement as a condition in the issued permit. This procedure is utilized for monitoring activities with similar basis (e.g.,

two requirements with limits based on ppm concentration can be streamlined). Permit writers are further instructed to document which requirements have been streamlined in the Basis for Monitoring portion of the PRR. This procedure is discussed in the training described in the response to Item 6.c above.

- b. Please provide two examples of permits that utilized streamlining strategies described above. Please indicate the conditions that included the streamlined requirements. Also, please provide the PRRs for these two permits and indicate the page number of the PRR that include the streamlining rationale.
  - 1. Please see Conditions 22 and 24 in the Algonquin Southeast Compressor Station permit. The streamlining discussion can be found on pages 19 and 20 of the associated PRR.
  - 2. Please see Conditions 25 and 26 in the Flexo Transparent LLC permit. The streamlining discussion can be found on pages 18 and 19 of the associated PRR.

### 13. Title V Application Content

- a. For those title V sources with an application on file:
  - i. 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 are required to provide updated information if an applicable requirement has changed or needed information is found to be missing from the application documents. However, application updates are not required if there have been no changes in applicable requirements or facility operations since the application was submitted.

- ii. Do you require a new compliance certification?

If the applicant is required to provide a fully updated application, it would need to contain a newly signed compliance certification. However, in cases where a Notice of Incomplete Application or Request for Additional Information is sent to the applicant seeking additional information related to a portion of the application a newly signed compliance certification is not typically required.

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

Yes, DEC verifies source specific compliance before a permit is issued. EPA's 2016 Compliance Monitoring Strategy (CMS) policy requires that DEC conduct a full compliance evaluation of each Title V facility once every two years and once every five years for SM-80 facilities. Further, Title V facilities are required to provide both semiannual and annual compliance certification reports. DEC staff regularly conduct inspections as required by the CMS and review periodic reports submitted by the facility

to determine compliance regardless of whether the facility currently has a permit application under review.

- c. In cases where a facility is either known to be out of compliance, or may be out of compliance (based on pending Notice of Violation (“NOV”)), or other evidence suggesting a possible compliance issue), how do you evaluate and document whether the permit should contain a compliance schedule? Please explain and provide specific examples.

40 CFR 70.6(c)(3) and 6 NYCRR 201-6.4(d)(4) require that permits for facilities that are not currently in compliance with all applicable requirements contain a schedule of compliance that describes the remedial measures and milestones the facility will undertake to return to compliance. Accordingly, permit writers review the compliance status of the facility and include a compliance schedule whenever necessary. In most cases, the compliance schedule corresponds to one or more Orders on Consent executed by DEC and/or EPA. The compliance schedule is included as one or more permit conditions and a narrative description is included in the PRR.

As an example, please see Condition 34 of the Title V permit for FCINA, Inc. Please also see the discussion on page 7 of the accompanying PRR.

- d. In cases where the facility is out of compliance, is a compliance schedule with specific milestones and dates for returning to compliance included in the permit? Please give a specific example.

Please see the response to Item 13.c above.

- e. How does NYSDEC handle a case when either the permitting office or the facility self-reports non-compliance with specific emission limits? Please give a specific example.

DEC investigates noncompliance reported by facilities or uncovered during routine inspections using similar methods. Evidence is gathered and analyzed to determine whether an applicable requirement has been violated. If so, a Notice of Violation is generated and sent to the facility. The matter is then referred to DEC counsel for legal action, including the possible imposition of penalties and the development of an Order on Consent to resolve the violation(s).

DEC is not aware of a recent example where a violation of specific emission limits was self-reported. However, please see the attached letter from Nassau Energy LLC disclosing a violation of Title V permitting requirements. DEC is currently pursuing enforcement action in this matter.

## **14. Public Notification Process**

- a. Has the NYSDEC developed mailing lists of people you think might be interested in title V permits you propose (e.g., public officials, environmentalists, concerned citizens)?

No. In some cases, however, lists may be developed for specific permit applications if individuals interested in an application become known to DEC.

- i. Are elected public officials on this list?
  - ii. How many environmental organizations are on this list?
  - iii. What information do you send to people on the list?
  - iv. How does a person get on the list (e.g., by calling, sending a written request, or filling out a form on the NYSDEC's website)?
- b. How does the NYSDEC update the mailing list of interested parties for title V permits?

Please see the response to Item 14.a above.

- c. Does NYSDEC reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

Please see the response to Item 14.a above. Please also see the response to Item 16 below regarding the Environmental Justice outreach process.

- d. Do you provide public notices in languages besides English? Please list.

Please see the response to Item 16.h below and the general translation flyer highlighting 12 different languages where translation is offered (see the "Language Access Chart" at <https://www.dec.ny.gov/about/85156.html>).

## 15. Public Comments

- a. Has NYSDEC denied any requests to extend the public comment period? If so, what were thereasons for denying them?

Yes. Please see the response to Item 10.v.b above.

- b. Has the public ever suggested improvements to the contents of the public notice, the public participation process, or other ways to notify them of draft permits? Describe.

DEC is not currently aware of any such suggestions.

- c. Have environmental justice communities been more active in commenting on permits in the last two years?

Efforts amongst DEC staff appear to have resulted in an increase in inquiries and

participation regarding permits in Potential Environmental Justice Areas (PEJA). However, DEC does not track the relative activity of interested individuals or organizations.

## 16. Environmental Justice

- a. Does NYSDEC have Environmental Justice (“EJ”) legislation, policy, or general guidance that help direct permitting efforts?

Environmental Justice is considered in several aspects of DEC’s permitting process. The requirements of Commissioner’s Policy 29 (CP-29) apply to major projects and major modifications as identified in Section 621.2 of the state’s uniform procedures that could have potential adverse impacts to PEJAs.

In addition, Section 7(3) of the Climate Leadership and Community Protection Act (CLCPA) requires all state agencies to consider whether administrative decisions such as issuing permits would create a disproportionate burden on disadvantaged communities (DAC). Section 7(3) further requires that state agencies prioritize reductions of hazardous air pollutants and greenhouse gases in these communities. DEC is currently preparing additional guidance on the implementation of Section 7(3).

- b. Does NYSDEC have an in-house EJ office or coordinator, charged with oversight of EJ related activities?

DEC’s Office of Environmental Justice (OEJ) is responsible for the oversight and coordination of activities in PEJAs and DACs.

- c. Has NYSDEC provide EJ training/guidance to the air permit writers? When?

DEC has not provided specific training to air permit writers regarding EJ issues. Air permit writers rely on the expertise of DEP and OEJ to ensure that EJ issues are addressed appropriately during the application review process. Training has been provided to air permit writers regarding the implementation of CLCPA Section 7(3) and additional guidance is currently being developed.

- d. Do the permit writers have access to demographic information necessary for EJ assessments(e.g., socioeconomic status, minority populations, etc.)? If so, how are the assessments taken into account in the permitting process?

Interactive maps of PEJAs and DACs are publicly available via the DEC Info Locator tool (<https://gisservices.dec.ny.gov/gis/dil/>). However, air permit writers rely on DEP and OEJ staff to determine when an assessment is necessary and for the implementation of CP-29 requirements.

- e. When reviewing an initial or renewal application or a modification, is any screening

for potential EJ issues performed? If so, please describe the process and/or attach the relevant guidance.

Yes. DEP and OEJ staff follow the requirements and guidance found in CP-29. A copy of CP-29 is attached.

- f. Are any other EJ factors or additional community information and/or demographics (for example children, elderly) taken into account or considered during the permitting process?

For purposes of CP-29, PEJAs are identified based on U.S. Census data that identify minority and low-income communities.

- g. At what point (if any) in the EJ analysis or permitting process do stakeholders become involved?

For a permit application review, stakeholders would typically become involved during the implementation of an Enhanced Public Participation Plan (EPPP). This would typically include informational meetings held in the community by the project sponsor. The implementation of the EPPP may precede, and be in addition to, the formal public comment period on a permit application.

- h. Describe how NYSDEC make information available to stakeholders and the affected community (e.g., translation of information, understandable and accessible materials, personal contacts, clearly explained technical information including potential risk, distribution of information, public meetings, etc.).

The development of an Enhanced Public Participation Plan (EPPP) by an applicant typically also requires the development of a stakeholder/contact list. It also typically identifies other languages that public notices or fact sheets will be translated in for the identified communities. In addition, DEC has developed a general translation flyer that can be enclosed with EPPP notices, highlighting 12 different languages where translation is offered (see the “Language Access Chart” at <https://www.dec.ny.gov/about/85156.html>)

## 17. Affected States and Indian Tribes Review

- a. How does NYSDEC determine which States qualify as affected States for a particular draft permit?

40 CFR 70.2 and 6 NYCRR 201-2.1(b)(4) define *Affected States* as all states and tribal lands whose air quality may be affected and that are contiguous to the state where the major stationary source is located for which a Title V facility permit, permit modification, or permit renewal is being proposed; or that are within 50 miles of such major stationary source. DEC requires that applicants identify affected states and tribal lands as part of the permit application. The information

provided is verified using available mapping tools such as GIS or Google Earth.

- b. How does NYSDEC notify affected States or Tribal Nation governments of draft title V permits? Please provide two recent examples of letters and/or permits that were sent to the affected States and/or Tribal Nations.

DEC provides a letter discussing the project and a copy of the public notice directly to affected States or Tribal Nation governments. The letter also includes a link where the draft permit may be accessed on the Department's website. As an example, please see the attached letters notifying several Tribal Nations of a proposed modification to the Title V permits for International Imaging and Sunoco Tonawanda Terminal.

- c. Are there any patterns to the type of comments submitted on draft title V permits by affected States? Are there particular types of issues that are of interest to the affected States?

Comments on draft Title V permits are rarely received from affected States. Accordingly, DEC has not observed any commonly raised issues.

- d. Has the NYSDEC ever received comments on draft permits from the Tribal Nations?

DEC staff are not currently aware of recent comments received from Tribal Nations on draft Title V permits. However, it is possible that comments have been received in the past.

- e. Does the NYSDEC review and comment on the adjacent States' title V permits? Please provide a recent example when the NYSDEC felt it was necessary to do so.

While receiving notifications of and occasionally conducting quick reviews of adjacent states' Title V permits, DEC is not aware of a situation where comments were provided on an adjacent states' Title V permit.