

The Environmental Protection Agency's (EPA) Review of the New Jersey Department of Environmental Protection's (NJDEP's) Title V Program

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I. Introduction

The State of New Jersey was granted interim approval for its Operating Permits Program on June 17, 1996 (61 FR 24715), and full approval on November 30, 2001 (66 FR 63168), pursuant to title V of the Clean Air Act ("CAA") and its implementing regulations at 40 C.F.R. part 70. A title V operating permit consolidates all requirements applicable to a source into a single permit document. Although title V of the CAA does not impose additional requirements in itself, it does authorize the state to add periodic monitoring, related recordkeeping and reporting requirements, where necessary, to assure compliance with all applicable requirements.

The New Jersey Operating Permits Program is administered by the New Jersey Department of Environmental Protection ("NJDEP"). There are 409 facilities subject to the New Jersey Operating Permits Program. Although New Jersey does not have the highest number of subject sources compared with other states, it has exceptionally diversified source types. When the New Jersey Operating Permits Program was under development, NJDEP made the case that additional time would be required to develop the initial title V permits for each source category given that this was a new program and NJDEP had no prior permitting experience from which to borrow. As such, NJDEP submitted a "category-limited interim program"¹ to EPA for approval. NJDEP was granted a "category-limited interim program" approval in accordance with 40 C.F.R. §70.4(d) and section 502(g) of the CAA. The permitting schedule for a category-limited interim program is different from the permitting schedule under a full program. Section 503(c) of the CAA allows States granted interim program approvals to issue all initial permits over a 5-year period as opposed to the 3-year period allowed for full programs.

Due to various reasons including many unforeseen issues that slowed down program implementation, all interim program approvals nationwide were granted extensions until December 1, 2001 when a full program was required to have been approved. States granted interim program approvals were further required to have all remaining initial permits issued under their full program by December 1, 2003 (within two years from full program approval). However, due to a hiring freeze that was then in place and the challenges of issuing a new permit to many different types of sources, the NJDEP Commissioner requested an extension until December 31, 2005 to issue all initial permits. EPA accepted this request in September, 2000.

Title V of the CAA also mandates states to run a Small Business Assistance Program ("SBAP") to provide technical as well as environmental compliance assistance to their small business communities. In the State of New Jersey, the SBAP is operated out of the Office of Pollution Prevention and works closely with the Small Business Ombudsman of the Chamber of Commerce to provide small businesses such information as pollution prevention measures, regulatory requirements, compliance methods and control technologies, etc.

¹ An interim program is one that substantially meets the requirement of part 70 but is not fully approvable. See 40 C.F.R. § 70.4(d)(1). The criteria for interim program approval are listed in 40 C.F.R. § 70.4(d)(3). A State may request category-limited interim program approval if it has compelling reasons for not applying the interim program to all sources within the State. NJ's compelling reasons are the existence of exceptionally diversified source categories within the State and limited State resources during the initial years of program implementation.

On June 22, 2005, as part of its oversight responsibility and pursuant to the agreement with HQ, the EPA Region 2 Office performed an evaluation of NJDEP's implementation of the Operating Permits Program as well as the SBAP. An evaluation of the fee component of the NJ Operating Permits Program was performed separately on March 4, 1999 and was not the focus of this review. The June 2005 evaluation was conducted to determine whether New Jersey successfully implements its Operating Permits Program to meet the objectives of title V of the CAA and the requirements of 40 C.F.R. part 70.

II. Summary of Review Findings

EPA conducted an assessment of NJDEP's overall implementation of the NJ Operating Permits Program in terms of the quality of permits issued; the availability of public, neighboring state, and EPA reviews; and most importantly, conformance with 40 C.F.R. part 70 and title V of the CAA. Information considered in the evaluation included a comprehensive questionnaire completed by NJDEP, on-site interviews with the Bureau of Operating Permits personnel, select files and documents provided by NJDEP on the day of the visit, and draft/proposed permits periodically reviewed by EPA staff as part of EPA's oversight responsibility. The questionnaire was a compilation of questions that pertain to the implementation of a title V program prepared by EPA's headquarters for use by all regions. The on-site visit included interviews with the Supervising Engineers who have direct responsibility for overseeing the quality of operating permits developed by the permit writers. The files and documents provided on the day of the visit included a renewal permit issued to the US Army IMA-Nero Garrison-Picatinny located in Rockaway Township; Standard Operating Procedures used for training new employees on permitting, permit modifications, and permit renewals; and the annual compliance certification form. The NJDEP was extremely helpful in providing all information needed to complete this evaluation. In this report, the Region notes both successes that deserve recognition and issues that need to be resolved to enhance NJ's Operating Permits Program.

Areas of Success

- Permit issuance rate for initial permits was delinquent in the beginning, but has since made steady and satisfactory progress. At the time of the audit, NJ was expected to have issued all initial permits by its deadline of December 31, 2005. EPA has since verified that NJDEP issued 408 of the 409 initial permits as of December 31, 2005.
- NJ did not simply process initial permit applications as submitted but took the initiative to verify facility information contained in each prior to processing.
- Title V permit development is done in an organized fashion by the use of standard operating procedures, checklists, etc. The permit contents as seen in permits reviewed in the EPA office and on-site conform to 40 C.F.R. §70.6(a-c) except for certain MACT requirements and certain emission-related provisions that were added without following the proper New Source Review (NSR) procedures.

- Public participation and affected state reviews are made available consistent with the requirements of 40 C.F.R. § 70.7(h) and §70.8, respectively.
- Periodic monitoring provisions are usually written properly to assure compliance with applicable requirements by the use of templates developed in advance.
- “Gap-filling” periodic monitoring provisions are inserted in permits as appropriate.
- Permit modification and renewal procedures are established to complete such permit actions within the statutory deadline of 18 months (section 503(c) of the CAA).
- All deviation reports, semi-annual monitoring reports and annual compliance certifications are reviewed by the Enforcement Division upon receipt to determine source compliance status. Emissions statements submitted by synthetic minor sources are also verified by Enforcement as they are received.
- The SBAP has effectively provided much needed guidance or information to the small business community concerning compliance with regulatory requirements.

Areas of Concern

- All permits lack an adequate “statement of basis” which is required under 40 C.F.R. §70.7(a)(5).
- NSR/PSD permit conditions were changed (e.g., addition of gap-filling monitoring, enhanced monitoring, etc.) during the title V permitting process without undergoing the proper administrative procedures for NSR/PSD purposes.
- Certain permit conditions were incorporated into the title V permit without any regulatory basis or underlying requirements. This practice conflicts with 40 C.F.R. §70.6(a)(1)(i).
- Designation of certain PSD and non-delegated MACT requirements as “Federal Only” is in direct conflict with 40 C.F.R. §70.4(b)(3). NJDEP’s failure to provide a timely response (within 45 days) to EPA’s letter of notification regarding some newly promulgated MACT standards that are ready for delegation causes confusion on the implementation and enforcement of these requirements.
- Incorporation of MACT requirements by reference is seriously inconsistent with 40 C.F.R. §70.6(a)(1).
- “Pre-SIP-approved” state limits are incorporated into title V permits as federally enforceable permit conditions instead of the “old” SIP-approved limits. This practice is incorrect and violates 40 C.F.R. §70.2.

- Section 112(r) requirements are not addressed in the permits. EPA considers these applicable requirements as defined in 40 C.F.R. § 70.2. Title V permits must assure compliance with all applicable requirements as required by 40 C.F.R. § 70.6(a)(1).
- Displaying the word "none" in the "Submittal/Action Req." column of some permit conditions gives the false impression that no reporting requirements are needed. This is confusing and results in potential inconsistency with 40 C.F.R. §70.6(c)(4).
- Some significant permit modifications have been processed incorrectly as minor modifications.

III. Details of Review

Permit Application: Section 503(c) of the CAA requires subject sources to submit an application for an operating permit to their respective States in accordance with the State's Operating Permits Program, as approved by EPA pursuant to 40 C.F.R. part 70 no later than 12 months from the date of program approval. The minimum contents of the application are described in 40 C.F.R. § 70.5. Given that NJ received a "category-limited interim approval," two-thirds of the 409 subject sources were required to submit their applications within the 12-month deadline (by June 17, 1997). The remaining one-third must submit their applications within 12 months of full program approval. All subject sources in NJ met the timely application submittal deadline as required by the CAA.

Due to the time lag between application submittal and permit issuance for the initial permits, NJDEP has required sources to update their applications if changes occurred during this period. NJDEP also verifies the source's compliance status as reported on the application before issuing the permit. This is accomplished through review of inspection reports and communication with the Enforcement personnel. EPA commends NJDEP for taking the extra steps to verify facility information prior to permit issuance, actions not specifically required by the part 70 regulations.

Permit Issuance Rate: Section 503(c) of the CAA allows the State to complete issuance of initial permits to sources subject to the approved program (be it interim, partial, or full) over a three-year period immediately following program approval. The extensions granted to all interim programs on a national basis postponed the initial operating permit issuance deadline to December 1, 2003. However, NJDEP requested additional time to complete initial permit issuance to a total of 409 sources by presenting issues that were unique to the State of NJ. The reasons identified by NJDEP to account for the additional permit application processing time were (1) NJ has exceptionally diverse source categories; (2) NJDEP fully incorporates all applicable preconstruction permit conditions into the title V permit for each source; (3) NJDEP cleans up old and obsolete preconstruction permit conditions via this integration and add gap-filling monitoring where appropriate; (4) the time needed to issue the initial permits to each source category takes longer because NJDEP did not have prior experience with such a permitting program.

From the time of interim program approval until year 2000, NJDEP used contractors to write permits due to a hiring freeze that was then in place. However, New Jersey determined that the high costs associated with using contractors and the constant re-assignment of new contractor employees made this scheme infeasible. The use of contractors was gradually phased out and replaced with State permit writers. NJDEP's permit issuance rate has since improved steadily as evident in monthly reports submitted to EPA. NJDEP has committed its entire Bureau of Operating Permit staff to completing all initial permit issuance by the December 31, 2005 deadline. As of the date of this audit, NJDEP had a total of 39 initial permit applications that remain to be processed. As of the date of this report, EPA verified that NJDEP has completed the issuance of all initial permits by December 31, 2005 with the exception of one that is in the development phase.

All title V activities are tracked by management through monthly reports and quarterly reports to ensure that all targeted dates are met. NJDEP has a system in place to manage resources to ensure that issues are resolved early and to keep all milestones on track. Permit writers meet weekly with their Supervising Engineer to discuss and resolve "hot" issues that surface during permit development, as identified by the permit writers. Progress meetings are held biweekly to keep everyone involved up-to-date on progress as well as issues that warrant attention. NJDEP keeps EPA abreast of permitting progress via submittal of monthly reports. EPA finds this system to work quite well as evident by the issuance of permits with increasingly better quality. The processing time for applications has also improved as a result of more experience with program implementation and the replacement of contractors with State employees as permit writers. NJDEP's issuance rate had lagged behind other states and EPA is pleased to see this issue being resolved.

Permit Development: During the transition period of phasing out contractors and phasing in State employees, NJDEP made tremendous efforts to train new State employees on the Operating Permits Program and on good permit writing. To streamline the training process and for consistency and efficiency in permit issuance, NJDEP standardized their permit issuance procedures for initial, modified, and renewal permits. These Standardized Operating Procedures (SOP) are made available to all new permit writers in an effort to assist and ensure that they develop comprehensive and consistent permits. First and foremost is a document entitled, "Permit Philosophy, Process and Modification Guidelines" that describes such basic information as emissions, monitoring, recordkeeping, averaging, etc. This and other documents that describe NJDEP's general policy on air permitting are included in Attachment C. There is a checklist called "Basic Check List for Operating Permit Contents" which lists rules and regulations by source type (e.g., boiler, carbon beds, emergency units, leak detection, manufacturing, process heaters, stationary internal combustion engine, thermal oxidizer, truck loading of gasoline and truck loading applicable VOC). The operating permit contents checklist lists all applicable requirements for these types of sources to ensure that no requirement is omitted from the permit. The Pre-draft Permit Checklist keeps the permit writer aware of all the administrative steps for issuing the initial operating permits. All of these documents are included in Attachment D. Additional guidance and resources are also available on the NJ website via a search engine called "eFinder" which is an electronic library of state environmental rules and regulations. Guidelines for monitoring have also been developed to assure consistency among different permit writers. EPA finds these training materials provided for new employees of the Bureau of Operating

Permit exceptional and establish a good foundation from which to build a comprehensive, efficient permitting program.

Public Participation: The title V's unique public participation process provides for public review including by neighboring state(s) of draft permits. It also provides for EPA review of the proposed permits and the opportunity for the public to petition EPA. The opportunities for public comment and petition are only available to initial permits, significant permit modifications, permit re-openings and permit renewals. Minor permit modifications and other types of changes such as administrative amendments, "7-day notice changes," etc. are not subject to public review.

In New Jersey, all draft title V permits are subject to a 30-day public comment period. A notice announcing the issuance of the draft permit and the opportunity and procedure for a public hearing is published in a newspaper of major circulation in the area where the permittee is located. The Mayor of the town or other elected officials, in which the facility is located, as well as citizens on a mailing list receive a copy of the public notice with a cover letter. The cover letter provides the facility profile and the reasons for the permit. In addition to newspaper publication, the public notice is also posted on NJDEP's Air Permitting website on the internet. The public may review the draft permit at the NJDEP Trenton Office or the Field Office closest to the permittee as specified on the public notice. The public can also request a copy of the draft permit by telephone or mail. All requests for information are responded to within 7 working days as required by NJ's "Open Public Record Act (OPRA)." Local residents who request a copy of the draft permit receive one free of charge while requests made by others are charged a nominal photocopying fee in accordance with state rules and regulations. NJDEP also provides affected state(s) an opportunity to comment on draft permits if the affected state is located contiguous to NJ or within 50 miles of the permittee. The affected state review period occurs concurrently with the 30-day public comment period.

In addition to the opportunity to comment during the public comment period, the permittee is offered the opportunity to review and submit comments on drafts of the draft permit ("pre-drafts") prior to commencement of public review. Facilities have taken advantage of this opportunity to review the pre-drafts resulting in many minor issues being resolved at an early stage of the permitting process and leaving the more substantive issues for the official public comment period. Those issues have been submitted by facilities as comments on the draft permit, pursuant to 40 C.F.R. §70.7(h). NJDEP reports that only 2% of the issued draft permits received public comments as a result of the newspaper publication and the website posting. A majority of the comments received from the general public are issues that pertain to Environmental Justice ("EJ"). There is a separate office in NJDEP that handles EJ issues identified during the permitting process. The Bureau of Operating Permit provides training to its permit writers so that any application with potential EJ issues are identified early for enhanced public outreach and analysis prior to permit issuance. Requests for a public hearing are only received occasionally. A public hearing is usually conducted if one is requested by the public. However, public attendance at these hearings is usually low.

After the close of the public and affected state review period, NJDEP evaluates all comments received and makes appropriate changes to the draft permit as necessary and submits the revised

draft permit as the proposed permit to EPA for a 45-day review. NJDEP's decision to accept or reject any comments received during the public review period is recorded in the "Response to Comments" document and submitted to EPA along with the proposed permit. Following the EPA review period is a 60-day period during which the public may petition the EPA to object to the issuance of the final permit as provided in 40 C.F.R. § 70.8. To eliminate any ambiguity regarding when the respective 45-day EPA review period and the 60-day petition period begin and end, Region 2 posts these important dates on Region 2's website as each proposed permit is received. To date, EPA has received only a handful of petitions for objection. Petitions for objection submitted by the general public primarily center around EJ issues while those from environmental groups focus both on EJ and monitoring issues. Petitions raised by the permittees usually focus on monitoring issues and permit conditions that did not originate from underlying applicable requirements. EPA believes that NJDEP has performed quite well in the area of public participation. The facility, the public, affected States, and EPA are all afforded opportunities to review and comment on all draft/proposed permits as required by 40 C.F.R. §§ 70.7(h) and 70.8(d). EPA concludes that NJDEP has satisfied its obligation for providing the enhanced public participation mandated by title V of the CAA and the part 70 regulations.

Statement of Basis: 40 C.F.R. § 70.7(a)(5) requires the permitting authority to provide a statement of basis that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). It further requires the permitting authority to make it available to EPA and any other person who requests a copy. During initial program implementation, NJ did not prepare a statement of basis for its draft permits because of its belief that the New Jersey Operating Permits are inclusive of all applicable requirements. They are so comprehensive that providing an explanation for each requirement in the statement of basis would be redundant. EPA disagrees because the usefulness of the statement of basis lies not in the description of applicable requirements, but in the legal and factual basis it provides for each newly added source-specific provision (such as gap-filling monitoring, changes to NSR/PSD permit conditions that needed public review, etc.).

As a strategy for initial program implementation, NJDEP processed title V applications in the order of increasing source category complexity. Therefore, the statement of basis which appeared to be a duplicative effort for the simpler source categories becomes a necessary supplement to the draft permit as the more complex source types are being processed. NJ started preparing a statement of basis for each draft permit issued in the past year after the lack of an adequate statement of basis was identified as an issue in public comments received. (The minimum contents of a statement of basis developed by EPA Region 2 and a copy of NJ's statement of basis are included in Attachment E.) While this is an improvement over no statement of basis, EPA finds the two-page document insufficient to satisfy the directives of 40 C.F.R. § 70.7(a)(5). The first page provides a description of the facility including types of emissions units and control devices; the allowable emissions limits for each subject pollutant; references to the origin of the monitoring, recordkeeping and reporting requirements; and a statement that all permit conditions originated from the facility's preconstruction permits and federally enforceable rules/regulations. The second page explains how the permit conditions are structured. In addition to the information already provided, NJDEP needs to include in the statement of basis a justification for each gap-filling monitoring, recordkeeping and reporting provision and for each permit condition that has been revised from the preconstruction permit.

This information is crucial to the full understanding of the conditions of the permit. Without this vital piece of information, citizens and interested parties who are invited to participate in the process cannot do so in a meaningful way, thwarting the external spirit of the CAA. EPA considers this issue a serious matter that must be corrected expeditiously by the NJDEP.

Periodic Monitoring: Title V of the CAA mandates that operating permits include periodic monitoring provisions to assure compliance with all applicable requirements. 40 C.F.R. § 70.6(a) specifies the minimum contents of an operating permit. Monitoring provisions are crucial to the success of the Operating Permits Program because they require the permittee to monitor the operation of its emissions generating units on a regular basis to detect problems early on, prior to the occurrence of any violation of the permit terms and conditions. Monitoring of a periodic nature helps improve source compliance and is an integral part of the title V permit. Periodic monitoring provisions as prescribed in applicable rules and regulations are required to be incorporated into the title V permits. However, some rules and regulations that were promulgated years ago did not include any monitoring obligation. Absent the requirement to monitor source compliance, enforcement of such permit conditions was difficult. Although the permit may impose a limit on emissions, raw materials, hours of operation, etc., it often requires no demonstration of compliance by the permittee as it is not called for in the underlying requirements. Some applicable rules and regulations may, at best, require only a one-time exercise such as a single stack test during start up with no requirement for demonstrating compliance on a periodic basis. 40 C.F.R. §70.6(a)(3) resolves this issue by granting the permitting authority the authority to fill such "gap" by adding new periodic monitoring requirements in the title V permit to supplement the "deficient" underlying rules and regulations. NJDEP makes use of this empowered authority to impose periodic monitoring where permits are found to be lacking in this respect. NJDEP's gap-filling authority is found under N.J.A.C. 7:27-22.16(o)(2).

Not only has NJDEP exercised its authority to gap-fill permit limits that came from monitoring-deficient rules and regulations, NJDEP has taken the liberty to enhance inadequate monitoring provisions that are transferred from existing preconstruction permits. NJDEP utilizes the gap-filling authority of 40 C.F.R. § 70.6(a)(3) to strengthen the enforceability of terms and conditions transferred from existing NSR or PSD permits. While EPA applauds NJDEP's intention to enhance the quality of existing NSR/PSD permits, this is not the correct use of the gap-filling authority. Such practice would disregard the public participation procedures under the NSR/PSD regulations. In essence, NJDEP may issue title V permits with conditions that differ from those in the prior permits. However, if such action is outside the scope of gap-filling under 40 C.F.R. § 70.6(a)(3) or N.J.A.C. 7:27-22.16(o)(2), then it may be considered a revision to the underlying permit requirement. In such a case, it must follow procedures governed by other applicable statutes and regulations including procedures for public notice and comment. In general, requirements from applicable rules and regulations are first stipulated in preconstruction permits under the NSR/PSD program, and later transferred to the operating permits. Where the NSR/PSD permits included the applicable emission standards without any periodic monitoring, NJDEP could add monitoring requirements during the title V permitting process using the gap-filling authority. However, where the NSR/PSD permits impose inadequate periodic monitoring, NJDEP could enhance the monitoring requirement as a NSR/PSD permit revision, but not as a gap-filling monitoring fix. NJDEP must ensure that the public is given an opportunity to review

the changes either under the NSR/PSD programs or under the title V program. This can be done by first revising the NSR/PSD permit before the revised permit conditions are transferred to the title V permit. Alternatively, NJDEP may issue a modified preconstruction permit as part of the title V permitting process. This can be done if NJDEP makes its joint permitting process transparent by describing to the public in the statement of basis any revisions to the preconstruction permit requirements that are carried through the administrative process via the title V permit. The public notice must indicate that comments are solicited for purposes of both the NSR/PSD and title V programs. Either of these procedures must be followed when changes are made to the NSR/PSD permit conditions during the title V permitting process.

One technical problem associated with adding gap-filling periodic monitoring has been the need to make case-by-case determinations by the permit writer on the appropriateness of any required monitoring; such determinations may vary depending on the permit writer. Consistency in making these gap-filling monitoring determinations is a challenge for program implementation. To handle the issue of consistency, NJDEP developed monitoring templates (known as the "presumptive norm") for combustion sources, with EPA. These templates can easily be incorporated into the permit electronically by the permit writer. Not only are the monitoring templates a good way to establish consistency among the permit writers; they prove to be useful in avoiding duplicative efforts for similar source types. EPA's review of proposed permits that incorporate the templates can also be expedited because the monitoring requirements have already been pre-evaluated and pre-approved. EPA finds the monitoring templates a good way to maintain consistency and improve efficiency in permit issuance. The success with using the "presumptive norm" has prompted the development of additional monitoring templates for baghouses and other emissions units. Nevertheless, EPA believes greater success can be achieved in this area if the statement of basis would (1) cite its gap-filling monitoring authority (N.J.A.C. 7:27-22.16(o)(2)) as the justification for the additional monitoring provisions and (2) explain any differences in monitoring being applied to similar units elsewhere.

Finally, NJDEP has taken the "gap-filling" authority another step further by expanding it to include new emissions limits and associated monitoring in permits issued to the grandfathered sources. This practice is inconsistent with 40 C.F.R. § 70.6(a)(3). Grandfathered facilities are those that were in existence before emissions standards were promulgated. Unless these facilities undergo a major modification, they are exempted from emissions limits that would apply to similar facilities constructed later. NJDEP establishes emissions limits and, in some cases, imposes periodic monitoring on these grandfathered sources that may be required to obtain a permit for the first time. As a way to keep track of the emissions of these grandfathered facilities, the application asks facilities to provide information regarding their emissions rates, fuel consumption, use of raw materials, etc. NJDEP takes the reported information and established emissions limits and/or operational limits on the grandfathered facility which was previously unregulated. EPA appreciates NJDEP's intention to require these facilities to be accountable for their emissions, but title V of the CAA does not provide States the authority to establish permit limits where there are no underlying requirements. This is inconsistent with 40 C.F.R. § 70.6(a)(1)(i). Title V only provides States the authority to add periodic monitoring provisions where the underlying requirement is lacking in that respect, not to create emissions limits and the corresponding monitoring provisions. This practice has resulted in companies submitting adverse comments on the "new limits" and associated monitoring requirements. EPA

discovered this practice as a result of other title V program oversight activities. On July 28, 2004, EPA wrote a letter to NJDEP explaining EPA's position on this issue. See Attachment F. Because this practice is not supported by the part 70 regulations or title V of the CAA, all permit conditions that do not have any federally enforceable underlying regulatory requirements must be removed from the Federal and State enforceable side of the permit. At NJDEP's discretion, they may be stipulated in the State-only section of the permit.

"Federal Only" Requirements: It has come to EPA's attention that some of the title V permits issued contain a "Federal Only" section. NJDEP has recently placed certain PSD permit conditions in this section of a source's title V permit to identify them as not enforceable by the State of New Jersey. NJDEP plans to do the same with the non-delegated MACT requirements. EPA finds NJDEP's approach a major issue as described below.

The creation of a section of the title V permit that is not enforceable by a state is inconsistent with the intent of title V of the CAA, which mandates an operating permits program fully implemented by a state. States have full authority to enforce all MACT requirements as well as all PSD permit conditions that are incorporated into the title V permits regardless of the delegation status of such requirements. This authority was already demonstrated when states submitted their title V Operating Permits Program to EPA for approval. 40 C.F.R. § 70.4(b)(3) requires any state submitting an operating permits program to the EPA for approval under title V of the CAA to include a legal opinion from the State's Attorney General stating, among other things, that the laws of the State, locality, or interstate compact provide adequate authority to carry out all aspects of the program. The legal opinion also included a demonstration of adequate legal authority to carry out the list of activities specified under 40 C.F.R. § 70.4(b)(3)(i)-(xiii). In fact, 40 C.F.R. § 70.4(b)(3)(i) and (vii) explicitly requires the state to issue permits and assure compliance with each applicable requirement by part 70 sources and enforce permits as specified in 40 C.F.R. § 70.11.

Not enforcing MACT requirements or PSD permit conditions that are stipulated in a facility's title V permit constitutes violations of the provisions of 40 C.F.R. §§ 70.10(b) and 70.11(a) and section 502(b)(5)(E) of the CAA. These violations seriously undermine the intent of the CAA because a state is required to enforce all requirements of a Federal Delegation, have their own federally approved program or be subject to sanctions. States cannot avoid enforcement by labeling any PSD permit conditions or MACT requirements as federal enforceable only. All conditions of a title V permit are enforceable by the state and citizens as well as the EPA through their participation in the permitting process as allowed under 40 C.F.R. §§ 70.7(h) and 70.8(b). NJDEP must remove the "Federal Only" section from its title V permits without delay. A "State Only" section is, however, allowed under 40 C.F.R. § 70.6(b)(2) for requirements that are enforceable only by the State; e.g., State rules that have not been approved by the EPA as part of the SIP.

It is important for NJDEP to pay attention to the causes for creating the "Federal Only" section in its title V permits. The underlying issues of not taking delegation for future MACT standards and some of the PSD requirements need to be resolved to fulfill NJ's obligation to protect the environment in the interests of its citizens and to comply with federal mandates. NJDEP's failure to provide a timely response (within 45 days) to EPA's letter of notification regarding

some newly promulgated MACT standards that are ready for delegation causes confusion on the implementation and enforcement of these requirements. EPA encourages NJDEP to respond to EPA's notification of future MACT standards in a timely manner and take delegation for them as quickly as possible. With regard to the PSD program and its partial delegation situation, NJDEP may develop its own regulations pursuant to 40 C.F.R. § 52.21 and submit them to EPA for approval as a SIP revision or take full delegation of the federal requirements.

MACT Incorporation: Aside from improperly designating non-delegated MACT standards as federal only, EPA finds NJDEP's practice of incorporating the MACT standards by reference without applying the specific requirements to the facility in question is inconsistent with title I of the CAA. EPA realizes that incorporation of MACT requirements into title V permits presents quite some challenges to the states given the availability of wide selection of compliance options offered by some of the MACT standards. EPA also recognizes that there is little national guidance from EPA to assist the states in making source-specific compliance option decisions for each subject source. Nonetheless, EPA finds it crucial for the facility to see more than just a citation for the MACT standard or a statement that the facility is required to comply with the MACT standard to which it is subject. Title V permits with such general reference or broad statement cannot be deemed sufficient to assure compliance with applicable requirements under title I of the CAA. This is seriously inconsistent with 40 CFR § 70.6(a)(1). NJDEP must reevaluate the various compliance options with each subject facility and refine these conditions in a permit re-opening process or during permit renewal, whichever comes first.

SIP Rule vs. State Rule: Another issue discovered during EPA's routine review of proposed permits submitted by NJDEP concerns the inclusion of newly adopted State rules and regulations in place of their predecessor as compiled in the New Jersey State Implementation Plan ("SIP"). State rules and regulations that establish emission limitations for the attainment of the National Ambient Air Quality Standards are approved by EPA as part of the SIP, and as such are considered applicable requirements, pursuant to 40 C.F.R. § 70.2. All SIP-approved rules and regulations are federally enforceable and must be included in the source's title V permit as appropriate. In addition, 40 C.F.R. § 70.6(a)(1) requires that each title V permit be issued with "[e]mission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance."

EPA's review of NJ's Operating Permits Program revealed that some SIP requirements were not included in the title V permits. Instead, new state-adopted versions of the SIP rule were included in the title V permits. This phenomenon is not unique to NJ. When a state rule is revised, the previous version of the state rule (which was approved as part of the SIP) is replaced and no longer enforceable by the state. The newly adopted revision to the state rule is the only version that is enforceable at the state level. The dilemma is that this newly revised state rule is not considered federally enforceable by the EPA until it has been submitted by the state and approved as a revision to the state SIP. A number of revised state rules have been submitted to EPA for approval by NJDEP. While these rules are being reviewed, only the "old" SIP rule requirements may be placed in the federal and state enforceable side of the title V permits. The "updated" state rule may only go into the State-only side of the permit. NJDEP's current practice of including the "updated" State requirements in the federal and state side of the permit is inconsistent with 40 C.F.R. § 70.6(b)(2) and N.J.A.C. 7:27-22.16(b)(5). NJDEP must make

the appropriate changes in those title V permits that are inconsistent with these regulations. Please note that NJDEP has the authority to enforce all applicable requirements within its permits (*See*, 40 C.F.R. § 70.4(b)(3)(i)), even though the old SIP rule is no longer on NJ's books. Once the requirements are put in the permit, the old SIP rule becomes state enforceable again. However, NJDEP can choose to enforce the (updated) state rule as a state requirement. The purpose for the inclusion of the old SIP rule in the title V permit is to allow EPA to enforce the old SIP rule.

Section 112(r) Incorporation: During the on-site visit, EPA inquired about how section 112(r) requirements ("Risk Management Plan") are implemented through NJ's title V Operating Permits Program. EPA notes that NJ's operating permits do not mention or reference these requirements despite the fact that the application asks the facility to indicate its compliance status with respect to section 112(r) of the CAA. Although section 112(r) requirements may not apply to all sources and may not impose any specific limitations on the source, they are applicable requirements (pursuant to 40 C.F.R. § 70.2) that need to be addressed in the title V permits and enforced by the state. EPA is aware that a facility's obligations with respect to these requirements may change over time, based on the types of chemicals being stored at the facility. As such, EPA finds it sufficient to include a general statement in the title V permit requiring the facility to comply with its Risk Management Plan if and when it is subject to section 112(r). This suggestion was made during the on-site visit and is based on observations made on other State Operating Permits Programs.

Recordkeeping/Reporting Requirements: Another problem discovered during our review of NJDEP's title V permits pertains to the "Submittal/Action Req" column of the Compliance Plan Section of the title V permit. The word "None" appears in this column quite frequently throughout the permit. It seems to indicate there is no requirement for any submittal or action by the subject facility. During the on-site visit, EPA inquired of the implication of the word "None" in this column and how NJDEP addresses the recordkeeping and reporting requirements of 40 C.F.R. § 70.6(c) in its title V permits. NJDEP explains that where no additional submittal or action required of the permittee other than the regular requirements of 40 C.F.R. § 70.6(c), i.e., semi-annual monitoring report and/or the annual compliance certification, the word "None" would appear in that column. EPA had asked NJDEP to replace "None" with a footnote, remark, or other more explicit language. NJDEP's response is that the word "None" has been programmed into the permit boilerplate document that cannot be overridden by the permit writer. It can only be changed by the contractor that designed NJDEP's computer program (NJEM) and would require a substantial amount of money to effectuate. Ultimately, NJDEP would like to replace "None" with a reference to the compliance certification and/or deviation reports that the source is required to submit. While EPA still finds it troublesome to see the word "None" in this column, NJDEP's proposal to include an explanation in the Facility Section of the Compliance Plan where general statements for each applicable requirement are presented is an acceptable solution in the interim. EPA has seen this interim fix in more recently issued draft permits. *See Attachment G.*

Non-major sources: NJDEP continues to exempt non-major sources from the title V operating permits program pursuant to 40 C.F.R. § 70.3(b). These are not major sources, affected sources or solid waste incineration units subject to section 129(e) of the CAA. In accordance with 40

C.F.R. § 70.3(b), the exemptions are allowed until such time as the EPA Administrator completes a rulemaking to determine how the part 70 program should be structured for non-major sources and the appropriateness of any permanent exemptions from the part 70 regulations. EPA has promulgated final rule on December 9, 2005, to permanently exempt from title V requirements five categories of non-major sources that are subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP). The rule was published in the Federal Register on December 19, 2005 (70 FR 75320) and was effective on the same date. The five source categories now permanently exempted, had previously been deferred from title V permitting requirements. The five source categories affected by this rulemaking are dry cleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide sterilizers and aluminum smelters. NJDEP should review this rule to ensure that NJDEP's exemptions conform to the requirements contained therein.

Synthetic minors: Major sources (those emitting 100 tons per year (TPY) or more of any criteria pollutant) are allowed to opt out of the title V program by securing federally enforceable emissions limits on the source's potential to emit (known as the PTE limits) in their NSR permits. EPA inquired about the enforceability of such limits. NJDEP responded that these sources are required to submit annual emissions statements to verify that their emissions stay below the emissions limits established in their NSR permits. Annual emissions statements received by NJDEP are reviewed by enforcement to verify the "minor source" status of these facilities. EPA finds it acceptable for NJDEP to use the NSR permits to establish federally enforceable PTE emissions limits for opting out of the title V program. EPA is also satisfied with the verification procedure that is in place to monitor the emissions of the synthetic minor sources.

Permit Modification: NJ's Operating Permits Rule, NJAC 7:27-22.33(e) allows for parallel processing of modifications to a source's title I (e.g. NSR, PSD, non-attainment review, etc.) and title V permits. When a facility seeks to modify its title V permit, it submits one application that is reviewed concurrently yet separately by the Bureau of Operating Permit and Bureau of Preconstruction Permit. Due to the increasing number of applications for permit modifications and the workload of the initial permit applications, a majority of the title V permit modifications have been reassigned to the Bureau of Preconstruction Permit for processing. This is a logical decision, since NJDEP has a merged process to handle title V and NSR permit modifications. The rationale behind simultaneous processing of both types of permit modifications is a more efficient public participation process. The 30-day public comment period under both programs will be synchronized so that only one comment period needs to be held and one response to comments document needs to be prepared. Currently, the Bureau of Preconstruction Permit takes the lead to review and issue the modified permit with the Bureau of Operating Permit in a consulting capacity. The same permit writer is responsible for reviewing the application for approval and developing the draft permit conditions under both the NSR and operating permits programs. The Bureau of Preconstruction Permit is well aware of the enhanced public participation and affected states review requirements as well as EPA's objection authority under 40 C.F.R. part 70. Based on our review, the Bureau of Preconstruction Permit is adhering to these administrative procedures quite well. EPA's review of permit modifications handled in a combined fashion shows NJDEP has performed well in the area of public participation by

conforming to procedures called for under both programs. That is, reviews by the public, neighboring states, and EPA are made available in accordance with the regulatory requirements.

However, EPA discovered problems with the substantive reviews performed on the permit modification requests. The lack of familiarity with the title V program resulted in delays during the approval process and even improper decisions on the level of review required for the subject modification. For example, the minor permit modification procedure may have been used when the significant modification procedure is warranted. NJDEP is aware of this glitch since EPA has already pointed it out during recent permit modification reviews.

EPA is aware that training materials are in place to help resolve this problem. They include a questionnaire entitled, "How to Determine the Type of Operating Permit Modification" that guides the permit writer to make the proper determination regarding minor and significant modification. Also, the "eFinder" function of NJ's electronic library contains checklists to help the permit writer make completeness and approvability determinations on administrative amendments, seven-day-notice changes, minor modifications, and significant modifications. See Attachment H. Despite the availability of training materials, making the right decision on minor vs. significant modifications still proves to be difficult. Nevertheless, EPA believes well coordinated efforts in processing modifications concurrently under the preconstruction permit and operating permit programs could save time without compromising permit quality. The Bureau of Operating Permits must conduct additional training on applicability reviews in order to assist the Bureau of Preconstruction Permit staff in making the proper use of the title V permit modification procedures (minor vs. significant). Alternatively, NJ may want to revert to the previous arrangement, i.e., have the Bureau of Preconstruction Permit and Bureau of Operating Permit review the same permit modification application separately but concurrently. EPA will review a greater number of minor permit modifications to determine whether progress has been made to resolve this issue.

Permit Renewal: Pursuant to N.J.A.C. 7:27-22.3(i), title V permits issued by the NJDEP have a permit term of not more than 5 years from the date of issuance. The procedures for processing permit renewals are clearly stipulated in the Operating Permits Rule. All renewal applications must be submitted 12 months prior to the permit expiration date as required under N.J.A.C. 7:27-22.30(c). The State must take final action on each renewal application within 12 months of receipt of the administratively complete application as required by N.J.A.C. 7:27-22.13(a)(2). NJDEP's title V permit renewal application is different from the initial permit application in that it does not require the facility to re-submit all of the information presented in the initial application. Rather, it focuses on changes to the initial permit application/initial permit issued. It requires the facility to document or summarize changes made to the title V permit during the permit term. A summary of the results of any required source emissions testing or monitoring performed since the date of issuance of the most recent operating permit is also submitted as part of the renewal application. Although the contents of the initial and renewal applications are different, the administrative procedures are identical.

To ensure issuance of accurate and quality permits, NJDEP has taken extra steps during its review of renewal permit applications to check on the source's compliance history, compliance certification submitted for the same period, pollution prevention reports, etc. When the renewal

permit is issued, it covers both old and new permit conditions. To ensure consistency among different permit writers, NJDEP has developed checklists for administrative completeness, technical review, pre-draft permits, draft permits, proposed permits, and final permits to guide the permit writers throughout the permit renewal process. See Attachment I. EPA finds sufficient procedures to be in place to provide for a smooth and efficient renewal process.

Enforcement: Compliance has improved due to the requirement for the submittal of monitoring reports every 6 months and a compliance certification every year by a responsible official of the subject facility. All monitoring reports and compliance certifications are reviewed by Enforcement to determine the need for enforcement actions. EPA reviewed the annual compliance certification form recently adopted by NJDEP and found it to be acceptable. See Attachment J. NJDEP reports regularly to EPA regarding its enforcement activities.

Fees: The emissions-based fees are collected at \$94.60 per ton of criteria pollutant. This fee rate is well above the presumptive fee rate of \$38.29 (for 2005). Besides the emissions-based fees, NJDEP also charges application fees and equipment fees. Title V fee revenue is tracked by the Bureau of Revenue where payments received are checked against invoices that were sent out. Activities that are funded by title V revenue include: the Bureau of Operating Permit (includes 23 permit writers and 5 supervisors); work done by the Bureau of Preconstruction Permit that are related to title V; enforcement activities that relate to title V compliance, revisions to related rules and regulations, the Small Business Assistance Program and other title V related activities.

EPA did not perform an in-depth review of NJDEP's Permit Fees Program as was done in 1999. EPA acknowledges that the one problem found in the 1999 fee audit which points to an insufficiently funded Operating Permits Program in the State of New Jersey has been rectified when a legislation was passed on July 2, 2002 to allow for an increase in the title V emissions-based fees. The fee rate in 2005 dollars is \$94.60 per ton of criteria pollutant. Although an audit of the fee revenue and expenditure was not performed during this program evaluation, the increased fee rate and the improved permit issuance rate are good indicators of an adequately funded program.

Small Business Assistance Program:

Section 507(a) of the CAA requires States to establish a small business stationary source technical and environmental compliance assistance program to ensure that small businesses are well informed and well prepared for the implementation of title V. Many requirements become applicable to small businesses for the first time post enactment of the 1990 amendments to the CAA. Section 507(a)(3) of the CAA requires the State to designate a State office to serve as the Ombudsman for small business stationary sources in connection with the implementation of title V. Section 507(e) of the CAA further requires the State to create a Compliance Advisory Panel (CAP) to monitor the effectiveness of the small business stationary source technical and environmental compliance assistance program. To ensure that assistance provided through this program will not be interrupted by inadequate funding, section 502(b)(3)(A) of the CAA requires that the Small Business Ombudsman and one of the three members of the SBAP be funded by the title V fee revenue. In accordance with the section 507 mandates, NJDEP established its Small Business Assistance Program (SBAP) within the Pollution Prevention Office of the

NJDEP. In addition to the SBAP, NJ established an independent Ombudsman designated in the Chamber of Commerce and created a CAP. The SBAP Supervisor works closely with the CAP to discuss the effectiveness of any technical and environmental compliance assistance programs that are in place to help small businesses achieve compliance through regular meetings. The Ombudsman works closely with the SBAP to learn about air issues that concern the small business community in the State of New Jersey. The Ombudsman also works very closely with the CAP, the Chamber of Commerce, and NJ's Clean Air council (of which he is a member) to ensure that the small business community is well represented during discussions of air pollution issues.

Section 507(a) of the CAA lists the activities of or assistance that should be made available from a SBAP. The NJ SBAP has performed superbly in providing the types of assistance in the capacity envisioned in the CAA. It fully complies with all of the requirements of section 507(a). Small sources are making use of the services provided under this program and find them to be very helpful. The NJ SBAP provides environmental assistance in numerous ways. Its primary functions include the following:

1. Collects and coordinates the sharing of information on compliance methods and control technologies to further compliance with the CAA requirements that apply to small businesses;
2. Disseminates compliance assistance information via the internet, telephone hotline, newsletters, direct mailings, guidance documents, and seminars;
3. Provides compliance assistance with pollution prevention and accidental release detection and prevention;
4. Provides environmental audit training to environmental professionals and refers small businesses to a listing of these auditors for compliance assistance;
5. Assists small businesses in determining the applicable requirements and requisite permits from regulatory programs that affect small businesses; and
6. Notifies small businesses of their rights and obligations under the CAA.

The types of small businesses that utilize this program are minor sources or non-major sources, covering auto body shops, dry cleaners, metal finisher, and gas stations. These small sources are happy with the assistance, information, and services provided by the SBAP because compliance has improved. Not only has the NJ SBAP received recognitions from Trade associations for their outreach initiatives, the CAP has also been recognized as one of the few that is fully staffed and functions in a very effective manner in providing assistance to the small business community. The NJ SBAP could serve as a model for other States.

IV. EPA's Recommendations

Based on the findings of this audit, NJDEP has utilized the tools provided by title V of the CAA and its implementing regulations at 40 C.F.R. part 70, to administer an operating permits program that benefits both the citizens of New Jersey, through the enhanced public participation process, as well as the regulated community, by consolidating all of their regulatory obligations into a single document. EPA has identified several issues in this report that NJDEP must address

in order for its Operating Permits Program to conform to both federal and NJ regulations. EPA recommends the following course of actions to rectify each problem area:

1. If and when NJDEP wishes to enhance the periodic monitoring provisions of an existing NSR/PSD permit, it may do so prior to transferring the permit conditions to the title V permit following the proper administrative procedures under the NSR/PSD programs. Alternatively, NJDEP may issue a modified preconstruction permit as part of the title V permitting process. However, NJDEP must make its joint permitting process transparent by describing to the public in the statement of basis any revisions to the preconstruction permit requirements that are carried through the administrative process via the title V permit. Either of these procedures is acceptable for making changes to NSR/PSD permit conditions during the title V permitting process.
2. All permit conditions that do not have any federally enforceable underlying regulatory requirements must be removed from the Federal and State enforceable side of the permit, and at NJDEP's discretion, stipulate in the State-only side of the permit.
3. The "Federal Only" section must be deleted from all permits. Permit conditions that were included in this section must be moved to the Federal and State enforceable side of the permit. This includes PSD permit conditions and MACT standards for which NJDEP has not yet taken delegation. NJDEP must enforce all permit conditions stipulated in the title V permits regardless of the delegation status of the underlying requirements. Specifically, permit conditions that pertain to MACT, that are carried over from an EPA issued PSD permit, etc. must be enforced by NJDEP.
4. NJDEP must respond to EPA's letter of notification in a timely fashion (within 45 days of receipt) regarding newly promulgated MACT standards in point of delegation acceptance. NJDEP must take action to properly incorporate MACT requirements into title V permits to assure compliance with title I of the CAA.
5. NJDEP must provide an adequate statement of basis for each draft permit it issues that meets the requirements of 40 C.F.R. § 70.7(a)(5).
6. Pre-SIP-approved state requirements that have already undergone state's rulemaking process but have not been approved into the NJ SIP must be placed in the State-only side of the permit. "Old" SIP-approved requirements must be incorporated into the Federal and State side of the title V permits.
7. Section 112(r) requirements are applicable requirements that need to be addressed in the title V permits and enforced by the NJDEP. It is acceptable for NJDEP to include a general statement in the title V permit requiring the facility to comply with its Risk Management Plan if and when it is subject to section 112(r).
8. Displaying the word "None" in the "Submittal/Action Req." column of some permit conditions gives the false impression that no reporting requirements are needed. This

must be fixed at the next opportunity for computer database enhancement. In the interim, NJDEP may continue to include an explanation for the word "None" in the Facility Section of the Compliance Plan where general statements for applicable requirements are presented to inform the facility of its recordkeeping and reporting obligations.

9. NJDEP must ensure that minor permit modifications are properly reviewed so that significant permit modifications are not incorrectly processed as minor modifications.

V. New Jersey's Remarks on Title V

As part of the audit, EPA asked New Jersey to provide feedback on its experience with the title V Operating Permits Program. NJDEP has identified areas where the State has benefited from the program and areas where further refinement from EPA is needed to eliminate confusion and assure consistency in program implementation across the country.

Benefits from Program Implementation: As a result of implementing the Operating Permits Program in New Jersey, the NJDEP staff gained a better understanding of the other requirements under title I of the CAA. Compilation of more complete technical information concerning control devices, emissions units, etc. has been made possible for each affected facility. It allows the State to improve on the quality of its permits in a systematic manner by utilizing information developed for training purposes which includes checklists and monitoring boilerplates for certain types of sources, etc. The title V program helps New Jersey discover inconsistencies in different permits issued to the same source during different time periods. For example, the facility may have been issued many different NSR permits for various pieces of equipment (constructed over the years) that are not consistent with each other. Permits issued for different sources within the same source category may be found to be somewhat different from each other. New Jersey can now take the appropriate steps to correct these permits using the proper procedures under title I or title V. The mandatory public involvement and EPA objection authority help promote better permit quality.

Periodic monitoring is one unique feature of the title V permit that has helped bring sources back on track by requiring them to pay attention to compliant operation before they have compliance issues. Also, the ability to add gap-filling periodic monitoring to permits prove to have enhanced permit enforceability tremendously. The experience with monitoring requirements gained from the title V program implementation has already been extended to NJDEP's minor source permitting program enhancing compliance in the minor source sector. The annual compliance certification and reporting requirements have increased sources' awareness of their compliance obligations. The title V application which requires the facility to identify each emissions unit and each operating process provides helpful information to the permitting authority for the first time on even grandfathered emissions units. As a result, NJDEP has a better stationary source emissions inventory than ever before.

The title V fee revenue has provided a stable source of funding for the title V program eliminating any concerns of funding fluctuation. It also provides the necessary funding for, among other things, training to improve on permit writing skills and a comprehensive computer

program to better serve the public and the regulated community on many aspects of title V permitting.

NJDEP has employed the "write your own permit" initiative to obtain greater involvement from sources in developing permit conditions prior to the issuance of the draft permit. This practice has improved the accuracy of permits and the facility's understanding of its permit conditions.

Assistance Needed from EPA: NJ identified the following areas of program implementation that require EPA assistance:

1. NJ says that national guidance on the appropriate permit modification tracks (administrative amendment, seven-day notice change, minor modification, and significant modification) and permit flexibility is extremely lacking. The part 70 regulations do not provide clear guidance as to which process to use leaving much discretion to the state. Inconsistency in processing similar modifications in different states causes tremendous confusion and delay in approving permit modifications. Much time is spent in determining the appropriate modification track to use as the source tries to negotiate for the one that requires the least amount of time to process and has been used in other states.
2. NJ believes if EPA provides guidance to help states develop appropriate gap-filling periodic monitoring where regulations are lacking, it will assure consistency among states and expedite permit reviews.
3. NJ believes if EPA develops sample compliance plan templates for all MACT Standards, it will reduce the amount of time each state spends on the same tasks.
4. NJ believes that national guidance on the definition of a significant piece of equipment and an insignificant piece of equipment is needed. Wide variation in this area among the states causes confusion and inconsistency in program requirements across the country. New Jersey believes this causes some delay in reviewing permit applications.

With regard to obtaining national guidance on MACT incorporation, Region 2 recognizes it is a challenge common to all permitting authorities nationwide. We will forward NJ's requests for national guidance to HQ for consideration and in turn forward to NJ any MACT templates that EPA develops. The need for EPA guidance on definitions, periodic monitoring strategies, and permit modification will also be related to EPA HQ for assistance.