



**FINAL Report:  
Idaho Department of Environmental Quality  
Title V Program Review**

**EPA Region 10**  
*September 27, 2007*

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# I. Introduction

This report documents the second Title V program review for the Idaho Department of Environmental Quality (IDEQ), the state air pollution control agency in Idaho. The first Title V program review for IDEQ was completed in January 2004.

## A. Overview and Review Objective

The Title V program reviews were initiated in response to recommendations in a 2002 Office of Inspector General audit. EPA set an aggressive national goal of reviewing all state and local Title V programs by the end of fiscal year 2006. Specifically, EPA has developed an action plan for performing reviews of state and local Title V programs and has committed to continuing the Title V fee reviews begun in 1998. The objective of the broader program reviews is to identify good practices that other agencies can learn from, document areas needing improvement, and learn how EPA can help improve state and local Title V programs and expedite permitting.

EPA Region 10 has completed first round reviews of the following Title V programs:

Idaho Department of Environmental Quality:	January 2004
Oregon Department of Environmental Quality:	June 2006
Lane Regional Air Pollution Authority (located in west-central Oregon):	June 2006
Spokane Regional Clean Air Agency (located in eastern Washington):	August 2006
Puget Sound Clean Air Agency (located in western Washington):	September 2006
Washington Department of Ecology:	September 2006
Northwest Clean Air Agency (located in northwestern Washington):	September 2006
Alaska Department of Environmental Conservation:	September 2006

We would like to acknowledge and express EPA's appreciation for the cooperation of IDEQ management and staff throughout all stages of our review of the Title V program. Receiving the timely and complete materials in advance of the on-site interviews was very helpful, allowing EPA to narrow the focus of our on-site interviews. IDEQ's efforts to make management, staff, and a room available to EPA for the interviews also helped make the on-site time very productive.

## B. General IDEQ Title V Program Background

IDEQ is the state air pollution control agency with jurisdiction throughout Idaho (except Indian Country), and promulgates its own suite of air pollution control regulations. IDEQ has fifteen positions in the stationary source program – of which 13 are in the permitting program. The permitting program also addresses pre-construction permits (both major and minor) and non-Title V operating permits (known as Tier II permits). At present, all positions have just been filled. The filled positions include a stationary source program manager, and a permits coordinator, two senior engineers and a compliance coordinator – all of whom report to the program manager. Nine permit writers report to the permits coordinator and one compliance analyst reports to the compliance coordinator. Title V source compliance inspection activities are primarily handled by personnel located in IDEQ's six regional offices, assisted by personnel in IDEQ's technical division, at headquarters in Boise. Title V permits (also known as Tier I permits) have been issued to all first round initial Title V sources in Idaho. The agency is presently busy with permit renewals, modifications and revisions. As of June 2007, Idaho had 59 Title V sources. IDEQ currently has an approved Title V program.

## **C. Program Review Basis**

The first Title V program review looked at all major elements of a Title V program. With this second round review, EPA has elected to focus on more specific issues and on program elements that may have changed from when the initial review was conducted. Of particular interest is how IDEQ has addressed the recommendations and concerns raised by EPA in the first review. EPA is also interested in how ongoing regulatory changes may have been integrated into IDEQ's program, and also in the continued adequacy of resources to adequately implement the program.

EPA's review of IDEQ's Title V program, which began in August 2007, is based on responses by IDEQ to the concerns raised by EPA in the initial program review, review of selected permits and statements of basis, as well as on-site interviews of IDEQ personnel. EPA's review of IDEQ's program also included a brief look at IDEQ's Title V fee management system.

The permits reviewed were chosen to represent different industry sectors. EPA also selected permits that were issued after the initial Title V program review, to provide a more accurate depiction of how IDEQ permits reflect changes in program implementation.

While on site at the IDEQ office, September 12, 2007, EPA interviewed the stationary source program manager and the permits coordinator. The purpose of the interviews was to confirm and clarify what we learned from our review of the permits and other materials received from IDEQ and to ask questions that developed during our pre-visit review.

EPA's review team included three Region 10 staff members. Key elements of the individual reviews, as well as observations from the on-site interviews, are highlighted and discussed in the report.

## **D. Program Review**

This program review report is presented in four main sections:

- II. IDEQ Responses to EPA Concerns
- III. Permit Issuance
- IV. Compliance Assurance Monitoring Program
- V. Other Issues

Each section of the report highlights and discusses good practices, concerns and other general observations. In general, we included in the report only those good practices that are unique to IDEQ or seem particularly worth noting and passing along to other permitting authorities. IDEQ's implementation of the program includes many other good practices that are not specifically discussed in the report because they are widely used among other Title V permitting authorities.

Each section also contains specific recommendations regarding issues that will need to be addressed. EPA Region 10 expects IDEQ to develop an action plan that responds to each of the recommendations identified in this report. EPA will work with IDEQ to address the identified concerns and will schedule follow-up as needed.

## II. IDEQ Responses to EPA Concerns

In the initial Title V program review, finalized in January 2004, EPA provided their observations delineated into eight separate sections. In each section, EPA identified good practices, concerns and other observations. One of the goals of this follow-up review is to evaluate the progress IDEQ has made in addressing the concerns identified almost four years ago. To this end, EPA asked IDEQ for a summary of their responses to the concerns identified in 2004. In July, 2007, IDEQ provided responses that are presented in each of sub-sections A through H of this review.

A review of IDEQ's responses makes clear that there have been no focused efforts to address the concerns raised by EPA in the 2004 Title V program review. As a result, there has been limited progress in resolving most of the identified issues. It is important to note, however, that certain activities undertaken by IDEQ have provided some synergistic benefits that may help resolve some of the outstanding issues. Most notably, in 2006, IDEQ conducted an extensive permit streamlining effort. Although the effort was focused on the permit to construct (PTC) program, because of criticism by industry groups, the streamlining project did highlight ways in which the Title V program could benefit from some of the concepts identified during the project. One of the outcomes of the streamlining efforts is that permits are no longer signed by the agency Director. Rather they are co-signed by the permit writer and the stationary source program manager.

Each of sub-sections II.A through II.H contains the concerns identified in the 2004 review as well as IDEQ's recent responses to those concerns. In addition, each sub-section contains a brief narrative of EPA's assessment of IDEQ's response. This assessment takes into account recent developments in IDEQ's Title V program and implementation. Each assessment may identify new concerns. Recommendations that arise from each concern are presented in sub-section II.I.

### A. Responses to Section A Concerns: Title V Permit Preparation and Content

**Table A: Concerns and Responses - Title V Permit Preparation and Content**

No.	EPA Concern	IDEQ Response
1	<p>IDEQ's standard Title V application form and instructions do not request information on or include several items of information that are required by IDEQ and EPA regulations to be submitted as part of a Title V application, such as identification of applicable requirements and statement of methods used to determine compliance. This could explain the high rate of incomplete applications submitted by Idaho facilities: IDEQ staff estimated that 80% of applications submitted lacked information needed to draft and issue a Title V permit. IDEQ did not formally identify such applications as incomplete, but instead requested that the facilities submit additional information. IDEQ should revise its standard application form before facilities are required to submit renewal applications to help ensure that all necessary information is provided in the permit application.</p>	<p>As part of DEQ's recent permit streamlining event in 2006, TV application forms and guidance were identified as requiring significant updates. DEQ anticipates revised forms and guidelines to be completed by July 2008.</p>

No.	EPA Concern	IDEQ Response
2	<p>Standard language on the cover of Title V permits states that “This permit incorporates all applicable terms and conditions of prior air quality permits issued by IDEQ for the permitted source....” This language could be interpreted to suggest that issuance of the Title V permit provides a shield for compliance with <i>all</i> previously-issued air quality permits for the facility. This language should be removed because it is not accurate as a general statement. EPA’s Part 70 regulations and IDEQ regulations make clear that the Title V permit does not provide a permit shield for a previously-issued permit unless the previously-issued permit is specifically identified in the Title V permit or specifically determined in the Title V permit not to be applicable to the facility.</p>	<p>DEQ does not see any issue with the standard language quoted in the report. Standard language specifically addressing the Permit Shield is located in the General Provisions section of the Tier I permit.</p>
3	<p>Although our permit reviews identified only a few gaps in the incorporation of requirements, such as NSPS, NESHAPs and SIP, the technique for incorporating those requirement could have been streamlined and clarified in some cases. The wording in the regulations often include and repeat general applicability language (<i>e.g.</i>, Each owner or operator of a new or modified diammonium phosphate process line...). Incorporated into a particular section of the permit, the wording can be much more concise. At the same time, the wording in the regulation often needs to be clarified. For instance, the term “administrator” means EPA Administrator unless that particular NSPS or NESHAP provision has been delegated to the state, in which case the term “administrator” means the IDEQ Administrator. A number of general provisions in the NSPS and NESHAP regulations should be included for all emission units that are subject to them, including 40 CFR 60.4(a) and (b); 60.7(b), (c), (d) and (f); 60.11(a), (b), (c), (d) and (g); 60.12; 60.13; 61.10(c); 61.12(c) and (e); 61.14(b) and (f); 61.19; 63.4(b); 63.6(e), (f)(1,2) and (h)(1,2,6,7); 63.7; 63.8; 63.9(e), (f), (g) and (h); 63.10 (b), (c), (d) and (e); and 63.11. Note that the subparts in Part 63 generally include a table listing the general provisions that apply. Also note that some of the one-time requirements may or may not apply depending on whether they have already been performed.</p> <p>As an example of a SIP requirement, in the Simplot permit, the permit incorporated the ambient monitoring requirement found in 40 CFR 52.675, but did not include the emission limits and emission monitoring from that provision. It is possible that the permit writer determined that the emission limits and emission monitoring requirements could be streamlined with other, more stringent SIP requirements applicable to the Simplot facility. This decision was not, however, discussed in the Technical Memorandum. Moreover, even in the case of streamlining, all applicable requirements must be included in the permit. Please also see the more detailed comments on streamlining in paragraph 7 below.</p>	<p>As part of DEQ’s recent permit streamlining event, DEQ identified the need for standard permit languages for various types of emission sources, control equipment and other regulatory requirements. Certain NSPS and MACT general provisions have also been identified as categories for standard language. Development of a library of standard language is an on-going process and will be completed by July 2008.</p>

No.	EPA Concern	IDEQ Response
4	<p>The permits reviewed included several one-time or past requirements that had either been completed prior to issuance of the Title V permit or were required by the Title V permit to have been completed before the Title V permit issuance date. Where requirements have not been completed on time, they should be addressed in a compliance schedule that is part of the Title V permit. Where requirements have already been completed at the time of permit issuance, it is good practice to determine whether the requirements are obsolete and if so omit them from the permit, explaining the decision in the Technical Memorandum. EPA recognizes that the effort of issuing so many permits last year may not have allowed enough time to look into the compliance status for such one-time or past requirements.</p>	<p>In order to ensure a consistent reviews and level of effort by permit writers on Title V permit application renewals, an internal checklist is being considered for development. The checklist would be specifically developed for permit writers as a renewal guideline to ensure that all of the necessary elements of a permit renewal process are addressed. The guidance checklist would include, but is not limited to, the requirement to review for obsolete permit conditions and for noncompliance issues such as missing or failed source testing. In cases of noncompliance, the development of compliance schedules in the TV permit would be required.</p>
5	<p>Because Idaho does not currently have delegation of the NSPS standards, permittees must provide reports and notifications to EPA as well as to IDEQ (because IDEQ has adopted the NSPS as a matter of state law). The Title V permit or Technical Memorandum should make this dual notification obligation clear. Obtaining delegation of the NSPS standards would obviate the need for dual reporting in most cases.</p>	<p>DEQ received program delegation of certain NSPS subparts in early 2006, so the requirements for dual reporting is not needed in most instances. Now that Idaho has certain NSPS delegation, permit writers will need to update the reporting requirements in TV permits to reflect changes and document in the statement of basis. This check can be included in the TV renewal guidance checklist described in response to 4 above.</p>
6	<p>In several cases, permits included only the current state-adopted version of an air quality regulation and not the version that was still approved in the SIP at the time the Title V permit was issued. In other words, Idaho had revised its regulation, but EPA had not yet approved the revised version into the SIP. In such cases, the permit must identify the current state-adopted version as a “state only” provision and must also include the SIP-approved version, although the permit can state that the current state-adopted version will become federally enforceable and the former SIP-approved version will automatically no longer be in effect upon EPA approval of the revised regulation as part of the SIP. Note that this problem has since ceased to be an issue in currently issued permits because EPA approved the current state-adopted version of Idaho’s air quality regulations effective February 18, 2003.</p>	<p>DEQ concurs.</p>

No.	EPA Concern	IDEQ Response
7	<p>In some cases, IDEQ appears to have attempted to streamline permit requirements where two requirements apply to an emission unit but one requirement appears to be more restrictive. Streamlining can be accomplished consistent with the requirements of Title V and EPA's Part 70 regulations. See Memorandum from Lydia N. Wegman, Deputy Director, Office of Air Quality Planning and Standards to the Regional Air Directors, entitled "White Paper Number 2 for Improved Implementation of the 40 CFR Part 70 Operating Permits Program," pp. 6-19, dated March 5, 1996. It does not appear, however, that IDEQ always followed the criteria for streamlining, such as carefully documenting in the Technical Memorandum that compliance with one requirement ensures compliance with the other requirement in all cases and including in the citation of authority in the permit for the streamlined permit term citations to all applicable requirements that are subsumed in the streamlined permit term.</p>	<p>To ensure proper application of EPA's permit streamlining criteria and proper documentation in the statement of basis, the process can be included in the TV renewal guidance checklist for permit writers to follow as described in response to 4 above.</p>
8	<p>The Title V permits reviewed included many cross-references to other regulations, permit conditions, applications, and, in some cases, entirely different documents. Cross-referencing can be an effective way to streamline permit writing and reduce the size of the permit, but it can undermine the goal of having a single document that clearly presents and explains all of the applicable requirements that apply to a Title V facility. In deciding whether to include a cross-reference in a Title V permit, we encourage IDEQ to carefully weigh these competing considerations.</p>	<p>DEQ concurs.</p>
9	<p>In some instances where limits were carried over from NSR or Tier II permits, the averaging period was identified as a monitoring requirement, rather than as part of the emission limit itself. Properly identifying the averaging period for emission limits is important when the limit is taken to avoid a program, such as the NESHAP and PSD programs.</p>	<p>DEQ has identified the need for standard language for emissions rate limits. Emission rate limit language is currently under development as part of the permit streamlining process. This language will address the issue of appropriate averaging periods.</p>
10	<p>IDEQ includes in its permits as a general provision in Title V permits a permit shield provision that closely follows IDEQ and EPA's Part 70 regulations. The IDEQ permit term, however, simply recites the permit shield provision without identifying which, if any, requirements have been determined not to apply to the facility. Because no requirements are identified in the permit as having been determined to be inapplicable to the facility, a requirement for obtaining the permit shield, there is in fact no permit shield for inapplicable requirements, but this is not as clear as it could be in IDEQ permits. IDEQ permits should either clearly identify what requirements have been determined to be inapplicable to the facility or should state that there is no permit shield for inapplicable requirements. Requirements identified as inapplicable in the Technical Memorandum or other documents do not have the permit shield.</p>	<p>If an inapplicability determination has not been made, no permit shield for inapplicable requirements exists. If the applicant doesn't seek the determination, it doesn't exist. See IDAPA 58.01.01.314.07 and 325.01.b. Section 19 of the General Provisions specifically references these sections.</p>

No.	EPA Concern	IDEQ Response
11	<p>Many of the Title V permits reviewed included mass emission limits, both short term and long term. The permits generally required emission inventories and often specified the use of emission factors in preparing the emission inventories, even in situations where emission monitoring or test data should be available. Actual emission measurement data is generally considered more representative of emissions than the published, generic emission factors that apply to broad classes of emission units. In those cases where continuous emission monitors and test data are available that data should be used for emission inventory purposes.</p>	<p>DEQ concurs.</p>
12	<p>All Title V permits must be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions. This statement of basis, which IDEQ refers to as the Technical Memorandum, is a useful tool for explaining the permit conditions, documenting IDEQ's decisions and considerations, and helping the regulated facility and the public fully comprehend the permit requirements. IDEQ should work to improve the content of the Technical Memoranda for its permits when IDEQ issues permit renewals and new permits. Although the basic structure and format of the Technical Memoranda seems like a good approach (<i>i.e.</i>, addressing applicable requirements sequentially), much of the text in the Technical Memoranda is a simple restatement of the permit requirements, with little additional explanation of the basis of the requirements. This is particularly true for testing, monitoring, recordkeeping, and reporting requirements, where the permitting authority is required to consider what terms and conditions are needed to assure compliance with applicable requirements. This is also true for requirements incorporated from Tier II permits (see Concern #13 below). Including information from the Technical Memorandum for the Tier II permit conditions into the Technical Memorandum for the Title V permit would better explain the legal and factual basis for the permit conditions carried over from the Tier II permit into the Title V permit.</p> <p>As another example, the Mountain Home AFB permit required IDEQ to apply EPA's non-road engine rules and guidance that EPA had previously provided to IDEQ. The Technical Memorandum should have been very clear about how the rule and applicable policy were being implemented. Specifically, it should have documented exemptions allowed and IDEQ's determination of associated ground equipment as non-road engines.</p>	<p>DEQ concurs. Specific guidance is required to be developed relating to the quality of the discussion of the legal and factual basis for permit requirements in the statement of basis to ensure consistent documentation by all permit writers. This issue can be included in the TV renewal checklist described in response to 4.</p>
13	<p>Some permits identified emissions as "fugitives" in situations where it was not clear from the Technical Memorandum or the permit that the source was in fact a source of fugitive emissions, and not a point source. For instance, in some instances, operations inside of buildings were identified as "fugitive," when in fact such emissions are generally considered point source emissions. Determining which emissions are fugitive emissions and which are point source emissions is important in determining which emissions are counted in determining the applicability of the PSD and Title V programs.</p>	<p>DEQ concurs. Appropriately determining and documenting in the statement of basis what sources are fugitive versus point sources and when fugitives count towards potential to emit for program applicability purposes is an important issue. DEQ is currently revising the statement of basis for PTC's and Tier II permits to improve the explanation of fugitive and point source emissions. Once this is completed, the Tier I statement of basis will be revised to ensure this element is captured.</p>

No.	EPA Concern	IDEQ Response
14	<p>Several permits required the development of operations and maintenance (O&amp;M) manuals. This can be a good extension of the compliance assurance concept that Title V fosters. In such cases, there did not appear to be any mechanism for ensuring the manual is adequate, such as a review and approval process, nor was the O&amp;M manual incorporated into the Title V permit. This may be appropriate given the often detailed nature of most O&amp;M manuals and the need to revise O&amp;M manuals frequently to ensure they remain current. In such cases, however, IDEQ should include in the permit as enforceable provisions the key elements of the facility's operation and maintenance procedures that are important for ensuring compliance with applicable requirements.</p> <p>There are also many situations where the permit, or at least the O&amp;M manual, should require that the operation of equipment follow manufacturer's specifications. IDEQ should use their judgment in deciding when this is appropriate.</p>	<p>DEQ agrees that O &amp; M manuals are a good extension of the compliance assurance efforts in permitting and compliance. DEQ has also recognized that a more efficient approach may be to include the key parameters as permit conditions, rather than as separate O &amp; M requirements, to assure compliance with the underlying requirements. With the development of standard permit conditions for various control and process equipment, DEQ will begin to migrate towards specific operating, monitoring, and maintenance conditions in place of general O &amp; M requirements.</p>
15	<p>IDEQ staff and management described some of the training opportunities that are available. Due to travel restrictions, however, only a few staff members are permitted to travel to training opportunities outside the State of Idaho. This policy substantially limits training opportunities for IDEQ staff because many of the national Title V workshops are held in only a handful of locations and generally in larger cities to allow easier access by a larger number of states. EPA notes that training of Title V staff is an expense of the Title V program that is covered by collection of Title V fees.</p>	<p>DEQ understands the benefits associated with sending as many permit writers to TV workshops as possible. DEQ will make all efforts possible to send as many permit writers to the next conference tentatively scheduled in Alaska. Based on the last TV workshop held in 2007, a rotational schedule was planned so that each state in Region 10 could host a TV conference which will help improve permit writer attendance.</p>

Some of the improvements identified during the streamlining exercise included updating forms, guidance and other documents used in implementing the Title V program. Forms and guidance are integral pieces of a Title V program and should be updated as the program matures. IDEQ is also contemplating developing a checklist for Title V renewals in order to ensure consistent application reviews and permit content. Based on our review of three permits (see Sections III and IV) the use of a checklist or other tool to ensure consistent permit content is needed. Given the dynamic nature of the Title V universe and the fact that new Title V sources are being added to IDEQ's jurisdiction, it would be prudent to ensure that the checklist also addresses initial permits. In general, renewal permits have to satisfy all requirements for an initial permit. Consequently, a checklist for initial permits, along with subsections for renewal permit actions, should help to ensure that permit issuance is conducted consistently across the program.

In June and July 2007, IDEQ received delegation from EPA of specific NSPS and NESHAPs regulations for Title V sources in Idaho. The delegation is effective for those regulations as of July 1, 2006. IDEQ sought delegation of those NSPS and NESHAPs for which sources existed in Idaho. As a result, of these delegations, dual reporting to EPA and IDEQ is not required as long as IDEQ's delegations are updated annually.

In conducting the permit reviews, EPA noted that there was extensive reference to other documents that were not readily available. In some cases, the referenced documents in turn referenced other documents, such as a permit to construct technical support document. This practice greatly diminishes the intent of statements of basis to adequately explain the legal and factual basis for permit decisions. This was especially troubling when the statement of basis (SB) provided no legal or factual basis but directed the

reader to a separate document for even a basic description of the underlying decision. An acceptable approach may be to summarize findings from a prior permit action into the Title V statement of basis and refer to the other document for additional details.

IDEQ agrees with EPA in how averaging periods should be included as part of the limit instead of as part of monitoring requirements. IDEQ intends to ensure that these are correctly implemented in the future by developing standard permit language.

In the initial Title V program review, EPA noted that there appeared to be a lack of clarity in how permit shields were being implemented. In conducting the reviews of permits for the latest program review, EPA again noted apparent confusion about how permit shields should be implemented. In one permit, permit shields were invoked as part of a listing of insignificant emission units (IEU), but the supporting document was missing any discussion of the purpose of the permit shield or what it was shielding the IEUs from.

Two concerns identified in the original program review centered around preparation of emission inventories. The first concern addressed using generic emission factors although site-specific monitoring or test data was available. The second concern addressed delineating the difference between fugitive and point source emissions. Both of these issues could be resolved by issuing guidance that would promote consistent implementation in IDEQ's program.

IDEQ routinely requires facilities to maintain operations and maintenance (O&M) manuals. In many cases, these manuals contain operating parameter limits, mainly for control equipment. However, given the limited enforceability of O&M manuals, it is clearly more appropriate to house these parameters as enforceable requirements in the permit rather than in the O&M manual. Written guidance on this issue would certainly help ensure consistent implementation.

## **B. Responses to Section B Concerns: General Permits**

IDEQ does not issue any general permits.

## C. Responses to Section C Concerns: Monitoring

**Table B: Concerns and Reponses – Monitoring**

No.	EPA Concern	IDEQ Response
1	<p>All Title V permits must include testing, monitoring, recordkeeping, and reporting sufficient to assure compliance with all applicable requirements. Although IDEQ included basic monitoring provisions in the initial round of Title V permits, there is much room for improvement as IDEQ begins to issue permit renewals and new permits. In developing monitoring guidance and issuing permit renewals and new permits, IDEQ should re-examine monitoring decisions made in initial permits and, where appropriate, expand on the monitoring and compliance assurance provisions. Many permits relied on monitoring of a single parameter to ensure compliance where it is not obvious that a single parameter alone is adequate. In many cases, no monitoring was included for an applicable requirement or monitoring was very limited, especially in the case of short term particulate matter and opacity emission limits. In such cases, the Technical Memorandum did not provide adequate justification for the decision to include no or very limited monitoring. The permit reviews performed as part of this project contain a broad spectrum of suggestions for improving the monitoring conditions that should be considered during permit renewals. Region 10 considers this an important issue that IDEQ should address as it renews existing Title V permits and issues new Title V permits. Region 10 staff are available to discuss this in more detail with IDEQ staff and to work with IDEQ on developing comprehensive monitoring provisions for Title V permits.</p>	<p>DEQ agrees that this is an important issue to address. As explained in previous responses, the development of a library of standard permit languages and development of a TV renewal checklist will be used as a starting point to address this issue.</p>
2	<p>IDEQ does not have any written guidance for determining appropriate monitoring and other compliance assurance measures for Title V permits. Some permitting authorities, such as the Oregon Department of Environmental Quality (ODEQ), have developed monitoring guidance for permit writers to use in issuing Title V permits and EPA believes this has been a very effective means of establishing a consistent approach to monitoring. Now that IDEQ has almost completed issuance of the initial Title V permits, we encourage IDEQ to consider developing written guidance for Idaho permit writers to consider in determining appropriate monitoring and compliance assurance measures in permit renewals and newly issued permits. In developing such guidance, we encourage the IDEQ permits staff to solicit input from compliance inspectors and enforcement personnel, as well as to seek examples from other state and local permitting authorities.</p>	<p>DEQ will review the Oregon DEQ guidance as part of the process in the development of guidance to address this issue. This may roll into the TV checklist as discussed earlier.</p>
3	<p>Although the permit format was relatively consistent, we did observe inconsistencies in the monitoring requirements. Monitoring decisions must be case-specific in Title V permitting; however, similar operational and emission control scenarios should result in similar monitoring requirements. The fact that IDEQ has no guidance, even general guidance, regarding monitoring expectations appears to have resulted in individual permit writers applying differing monitoring strategies for similar sources.</p>	<p>See response to 2 above.</p>

No.	EPA Concern	IDEQ Response
4	<p>Where testing was required in permits, the permit did not always require simultaneous monitoring and recording of the compliance assurance parameters. Similarly, where particulate emission testing was required in permits, the permits did not always require simultaneous recording of opacity. These are both good practices to consider because they can help to establish acceptable ranges for compliance assurance parameters and provide a baseline relationship between monitored parameters and emissions that can be used to identify potential performance changes at an emission unit. This ties in with the need for IDEQ to establish acceptable ranges for all compliance assurance parameters and to re-examine those ranges each time a source is tested.</p>	<p>As described in an earlier response, DEQ is in the process of developing standard permit languages. Source testing language has been identified in this development which includes procedures for ensuring that appropriate compliance assurance monitoring of key parameters are including in the source testing requirement.</p>
5	<p>Opacity observations are routinely required and in many instances relied upon by IDEQ in Title V permits to indicate compliance with both opacity and grain loading emission limits, which is a common practice among other state and local agencies as well. Idaho's opacity limit generally prohibits opacity in excess of 20% for more than 3 minutes in any 60 minute period. In some cases, Title V permits required the permittee to conduct a Method 9 observation for a period of only six or ten minutes. In such cases, the permit did not specify, however, what would occur if such a Method 9 observation documented, for example, that opacity exceeded 20% for two minutes during a required six minute observation, which would indicate on a proportional basis that the facility would exceed the opacity limit had the observation been conducted for a full 60 minutes. One way to address this ambiguity in the permit is to add language that requires the facility, whenever a single reading is greater than the standard, to conduct a Method 9 opacity observation for a full 60 minutes or until an exceedance is documented.</p>	<p>DEQ will consider this issue and propose a response at a later time.</p>
6	<p>The frequency of testing and monitoring must be specified in the Title V permit. IDEQ appears to have used a general approach to testing and monitoring frequency, whereby the frequency is dictated by how close the previous test or monitoring results were to the emission limit. Although the compliance margin, as indicated by the most recent source test or monitoring, is one factor that should be considered in determining the frequency of testing and monitoring, other relevant factors include the relative variability of an operation and the availability of other appropriate monitoring provisions to ensure compliance between tests. IDEQ should also consider these factors in determining the frequency of testing and monitoring.</p>	<p>DEQ will include this issue in the guidance for standardized source test language still under development.</p>

No.	EPA Concern	IDEQ Response
7	<p>Many of the Title V permits reviewed included a condition that allowed a source to operate at up to 120% of the operating rate achieved during the most recent passing source test. Establishing a restriction on production can be a useful compliance assurance measure but using a standard margin above the last source test will not ensure compliance in all cases. Such a margin must be established on a case-by-case basis, taking into consideration the variability of the source and how close the measured emission rate during the last source test was to the emission limit. IDEQ has recognized this and advised EPA during the on-site interviews that IDEQ was moving toward a different approach for setting production limits based upon emission testing results. As an example, IDEQ noted the use in a permit of a graduated operational limit using a ratio of the emissions level to the standard when the measured emission rate was greater than 5/6ths of the grain loading standard.</p>	<p>DEQ has moved away from using the 120 % provisions and utilizes compliance assurance margins or “worst case normal” provisions on a case by case basis. For example, some permits have used the graduated scale technique for wood fired boilers as EPA states above. Other permits require sources to conduct testing at worst case operating conditions. Standard permit language is currently under development for source testing which will include a wide variety of options based on the type of source to be tested and the parameters that most effect emissions.</p>
8	<p>In some cases, IDEQ required the same testing or monitoring for several similar or even identical emission units, without explaining in the Technical Memorandum why the same testing or monitoring regime was appropriate. This is especially a concern where past testing has not demonstrated that emission units have similar emissions and operate in a similar manner.</p>	<p>DEQ agrees that proper documentation of the stack testing decision making process needs to be technically supported in the statement of basis. DEQ has recently developed guidance for requiring source tests in air permits which provides for useful information in the stack testing decision making process. The TV checklist approach could also include a requirement for permit writers to ensure proper documentation in the statement of basis regarding stack testing decisions.</p>

In responding to the eight concerns raised by EPA, IDEQ has in general indicated that they have not yet implemented practices to address these concerns but plan to do so in the near future. In subsection I of this section, actions to address these concerns have been included in the list of recommended actions.

In one of the other concerns raised (see no. 5) IDEQ proposed to formulate a response at some later time. During the permit review conducted as part of this program review, EPA noted this problem once again and has recommended in Section III.D of this report action to address this concern.

**D. Responses to Section D Concerns: Public Participation and Affected State Review**

**Table C: Concerns and Responses – Public Participation and Affected State Review**

No.	EPA Concern	IDEQ Response
1	<p>EPA has reviewed a recent Idaho ruling regarding the right of an environmental organization to intervene in an appeal of a Title V permit where the organization commented on the permit, but did not itself appeal the permit. At this time, EPA does not believe the ruling interferes with the public participation requirements of the Clean Air Act and EPA’s Part 70 regulations. EPA is aware of another pending case, however, in which the permittee is challenging the right of an environmental organization to appeal a Title V permit on which the organization submitted public comments. EPA will follow that proceeding to ensure that Idaho’s public participation procedures continue to meet the requirements of the Clean Air Act and EPA’s Part 70 regulations with respect to representational standing for organizations.</p>	<p>Idaho’s Board of Environmental Quality applies United States Supreme Court precedent when reviewing representational standing.</p>
2	<p>Public involvement is an important part of the Title V process. The Clean Air Act requires states to solicit public comment on draft permits and to provide public commenters the right to challenge permits in state court. Although Idaho law meets these requirements, IDEQ does not provide outreach to the public on how the Title V program works or how the public can participate in the review and issuance of Title V permits. Although IDEQ occasionally receives comments from the public on Title V permits, IDEQ staff noted that the comments are generally not substantive and expressed concern that Idaho’s public review process was ineffective due to the limited number and nature of the comments. By providing basic training to the public on how the Title V program works and how the public can participate in the review and issuance of Title V permits, IDEQ could help ensure a more meaningful public participation process in Idaho. EPA is willing to assist IDEQ in providing public participation training opportunities.</p>	<p>DEQ encourages public participation in the permitting, rulemaking and SIP review processes. In areas of high interest, DEQ receives high public participation. DEQ provides the public with the opportunity to sign on to the DEQ list server, whereupon a personal email is sent announcing public comments or hearing opportunities.</p>
3	<p>IDEQ also does not have any programs focused on environmental justice to help ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws and policies. Although Idaho has a large and increasing Hispanic population, all of the public participation information is provided in English only. Translation of public notices into Spanish could assist this community in participating in the Title V issuance process and further environmental justice goals, especially in cases where Title V facilities are located in areas with significant Hispanic populations. EPA is willing to assist IDEQ in providing environmental justice training opportunities.</p>	<p>DEQ will consider this issue, such as providing a name and number to contact for Spanish translation on its website.</p>

No.	EPA Concern	IDEQ Response
4	IDEQ provides the permittee with a pre-draft permit for review and comment before the draft permit goes out for public comment. Soliciting the permittee's input on the factual aspects of the permit can help to reduce errors in the permit and help educate the permittee on its obligations under the permit. Working with the permittee on developing the substantive requirements of the permit, however, can create the impression that the permit issuance process is not an open process. IDEQ should carefully balance these interests as it works with permittees during the development and issuance of Title V permits.	DEQ provides the public with the opportunity to comment and provide input at any time prior to permit issuance.

The public participation components of Idaho's Title V program meet the minimum elements of the Part 70 program. However, and as noted in the original program review, additional guidance for the public in how to participate meaningfully in the permitting process would enhance the performance of the program. IDEQ should consider how they can integrate such public-friendly elements into their Title V program as the program matures. The concepts of the environmental justice program can also be jointly implemented with the Title V program.

Like many of the permitting authorities across the country, IDEQ continues to provide permittees with pre-draft permits for review and comment before the draft permit goes out for public comment. Soliciting the permittee's input on the factual aspects of the permit can help to reduce errors in the permit and help educate the permittee on its obligations under the permit. Working with the permittee on developing the substantive permit requirements can, however, create the impression that the permit issuance process is not an open process. IDEQ should carefully balance these interests as it works with permittees during the development and issuance of Title V permits. EPA noted in review of the Simplot permit that the permittee was provided with two separate opportunities to comment on permit materials before the draft permit was released for public comment. The statement of basis did not document the changes that were requested by the permittee or identify those permit elements that were changed as a result of Simplot's comments.

## E. Responses to Section E Concerns: Permit Issuance / Revision / Renewal

**Table D: Concerns and Responses – Permit Issuance / Revision / Renewal**

No.	EPA Concern	IDEQ Response
1	EPA's Part 70 regulations and IDEQ's regulations state that the permitting authority shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. IDEQ took more than 60 days to take final action on most administrative permit amendments. IDEQ's efforts to get all permits issued by the end of 2002 may have contributed to this delay in acting on administrative permit amendments.	DEQ's recent permit streamlining event was designed to reduce the lead time for all permit application projects, including Tier I permit amendments. DEQ has also developed a performance measure (PM) that requires 90% of all Tier I permits applications meet regulatory timeframes. This PM is contained in each permit writer's performance plan.

EPA continues to be concerned about the delays in issuance of permits. For example, IDEQ currently has four active Title V renewal applications that are past the issuance deadlines. Hopefully, the benefits of the streamlining efforts will be realized in the Title V program as well as in the construction permit program. In any event, it would be useful for IDEQ to review their Title V workload and resource levels to determine a plan for timely issuance of future permits (see Recommendation 1 in Section V.D).

## F. Responses to Section F Concerns: Compliance

**Table E: Concerns and Reponses – Compliance**

No.	EPA Concern	IDEQ Response
1.	<p>Because of the large number of Title V permits with compliance schedules that require non-complying facilities to apply for and obtain a facility-wide NSR/Tier II permit on set time schedule, IDEQ has a significant upcoming workload in its NSR and Tier II permitting programs. Because the same IDEQ staff is responsible for issuing Title V, NSR and Tier II permits, there will undoubtedly be competing priorities for IDEQ's permits staff: issuing modifications to Title V permits, acting on renewal applications for Title V permits within the 18 month deadline, issuing facility-wide NSR/Tier II permits for noncomplying facilities, and keeping up with NSR and Tier II applications for other facilities. This workload will need to be carefully managed by IDEQ management. Because the Title V program is a fully self-funded program, it is important that the responsibilities of the NSR and Tier II programs not interfere with the timely issuance of Title V permits. IDEQ's decision to stagger the expiration dates for the first round of Title V permits should assist in managing the workload of IDEQ's permits staff.</p>	<p>DEQ's recent permit streamlining efforts will improve the efficiency and consistency of all permit types. DEQ has also recently added two new FTE's to the permit team bring the number to 10 dedicated permit writers. These additional resources have increased DEQ's capabilities of handling increased NSR and TV workloads.</p>
2.	<p>Given the large number of Title V permits with compliance schedules, EPA anticipates that at least some of the violations discovered through the Title V permit issuance process will be classified as "high priority violations" (HPVs), as described in EPA's "Policy of Timely and Appropriate Enforcement Response to High Priority Violations," dated December 22, 1998 (HPV Policy). As such, EPA expects that such violations will be identified, tracked, and addressed consistent with the HPV Policy. EPA notes with concern that Idaho law prohibits IDEQ from bringing an administrative or civil proceeding to recover for a violation more than two years after the director of IDEQ had knowledge or ought reasonably to have had knowledge of the violation. <u>See</u> Idaho Code § 39-108(4). Although the Idaho Attorney General's Office has stated that this provision does not prohibit IDEQ from seeking injunctive relief where violations have continued for more than two years with the actual or constructive knowledge of IDEQ, this provision could preclude IDEQ from assessing penalties for HPVs at Title V facilities in a manner consistent with the HPV policy. EPA notes with concern that IDEQ does not appear to assess penalties at all to facilities that do not pay Title V fees on time. EPA will continue to monitor IDEQ's enforcement program and the impact of this statute of limitations provision on IDEQ's ability to implement and enforce the Title V program consistent with the requirements of the Clean Air Act and EPA's Part 70 regulations.</p>	<p>Part 70 does not require a specific statute of limitations period and Idaho's TV program is fully approved with a two year statute of limitation period. Idaho Code § 39-108(3)(6) prohibits an action for recovery, which is interpreted to mean the recovery of penalties, not injunctive relief, which is always available. DEQ has the authority to assess penalties for the failure to pay fees.</p>
3.	<p>The instructions to IDEQ's standard form "Semiannual Deviation Summary Table" state that deviations attributable to excess emissions must be reported in accordance with IDAPA 58.01.01.130-136 and are therefore not required to be addressed on the Semiannual Deviation Summary Table. Although the instructions to the Semiannual Monitoring Table do clearly state that ALL deviations must be referenced in the Semiannual Monitoring Table (both those on the Semiannual Deviation Summary Table and other deviations reported at an earlier date, such as excess emissions), the title of the form, "Semiannual Deviation Summary Table," is misleading in that</p>	<p>DEQ requests EPA to review the newest versions of the TV compliance reporting forms located on DEQ's website.</p>

No.	EPA Concern	IDEQ Response
	<p>it is not in fact a summary of all deviations. This is compounded language on the Instructions for Title V Semiannual Report, which states, “Check either yes or no to indicate if any deviations from permit conditions are being reported for the given reporting period. If the answer is yes, attach the Semiannual Deviation Summary Table (Form AQ-C3) to this Semi-Annual Report.” According to the Instructions to the Semiannual Deviation Summary Table, however, there are situations where a permittee would have had a deviation, but would not need to submit a Semiannual Deviation Summary Table—where the deviation is excess emissions reported in accordance with IDAPA 58.01.01.130-136. Clarifications to the Instructions for Semiannual Deviation Summary Table and the Instructions for Title V Semiannual Report would help avoid confusion. EPA is aware that IDEQ is revising the form to minimize any confusion.</p>	
4.	<p>IDEQ’s Semiannual Deviation Summary Table Form and Instructions describe the term “credible evidence” incorrectly. “Credible evidence” is any evidence that provides credible information relative to whether a facility would have been in compliance with an applicable requirement if the appropriate performance or compliance test or procedure had been performed. In other words, it is evidence other than the reference test method or procedure. For a given applicable requirement, the monitoring required in the Title V permit is often not the reference test method or procedure, but is often credible evidence. For example, for an opacity standard, Method 9 may be the reference test method, but the permit might require a continuous opacity monitor or weekly readings for any visible emissions. That monitoring is “required” by the Title V permit but is credible evidence, not a direct measurement of compliance with the standard.</p>	<p>DEQ requests EPA to review the newest versions of the TV compliance reporting forms located on DEQ’s website.</p>
5.	<p>In the questionnaire, IDEQ stated that Idaho’s SIP excess emission provisions (IDAPA 58.01.01.130-136) provide relief from penalties and injunctive relief and excuse noncompliance. As EPA stated when it approved Idaho’s excess emission provisions, however, EPA believes that “Idaho’s rules make clear that emissions in excess of emissions limits are considered violations and are not automatically excused. Instead, section 131 contains criteria to be used in determining whether the Department should take enforcement action to impose penalties for excess emissions.” <u>See</u> 67 FR 52668 (August 13, 2002). EPA came to this conclusion based on its review of Idaho’s excess emissions provisions, discussions with the Idaho Attorney General’s Office, and discussions with IDEQ staff several years ago. IDEQ should review its excess emission provisions with the Idaho Attorney General’s Office and confirm to EPA in writing how IDEQ interprets Idaho’s excess emission provisions and what steps IDEQ will take to ensure that the Title V permits staff understands IDEQ’s interpretation of the excess emission provisions.</p>	<p>Excess emission violations are not excused. In proposing to approve DEQ’s excess emission rules, your agency stated: “Idaho’s rules make clear, however, that emissions in excess of emission limits are considered violations and are not automatically approved.” 67 Fed. Reg. 52666, 52668 (August 13, 2002), final approval 68 Fed. Reg. 2217 (January 16, 2003). DEQ will review this with staff.</p>

In the initial Title V program review, EPA identified some concerns related to compliance – these concerns are listed above. In this review, EPA is focusing on the program as it pertains to issuance of permits and permit content. Consequently, these concerns and IDEQ’s responses are being forwarded to EPA Region 10’s compliance group for review and follow-up, outside of this program review.

## G. Responses on Section G: Resources and Internal Management Support

**Table F: Concerns and Reponses – Resources and Internal Management Support**

No.	EPA Concern	IDEQ Response
1	IDEQ permit staff members are not dedicated to the Title V program only and are also responsible for processing NSR and Tier II permits. This is a common practice in smaller state and local air agencies and in fact can be an efficient use of staff expertise. Because the Title V program is a fully self-funded program, however, it is important that the responsibilities of the NSR and Tier II programs not interfere with the timely issuance of Title V permits.	Please note DEQ's response to concern #1 in section F above.
2	Because the Clean Air Act requires that Title V fees fully cover the cost of the Title V program, it is important to ensure that the revenues projected for the program are in fact available. Although there is no indication that IDEQ is not collecting enough revenue to adequately run its Title V program, IDEQ does not appear to assess interest to facilities that do not pay Title V fees on time, nor does IDEQ appear to even collect past due fees in all cases (as, for example, where a facility failed to submit a Title V application for several years). IDEQ's failure to impose consequences on facilities that do not pay their fees could over time result in actual Title V revenues falling short of projections so that Title V fees are not sufficient to support the program.	Part 70 does not require the collection of interest for overdue fees. DEQ may enforce against those TV facilities that fail to pay fees. Additionally, IDAPA 58.01.01.394 provides DEQ with the authority to refuse to process or issue a permit to construct or operate to any facility delinquent in paying fees.

As noted in Subsection II.E, EPA continues to be concerned about the delays in issuance of permits. Our expectation is that the plan for timely issuance of future permits as recommended in Subsection V.D (see Recommendation 1) will help in proactively optimizing workload and resource availability.

## H. Responses to Section H Concerns: Title V Benefits

Section H of the January 2004 report addressed benefits identified by IDEQ in implementing the Title V program. Consequently, EPA did not identify any concerns in the section of the report.

## I. Recommendations

While conducting this Title V program review, EPA identified several concerns with various elements of IDEQ's Title V program. In order to address these concerns, EPA has incorporated the various actions proposed by IDEQ to recommend that IDEQ implement the recommendations below and, consistent with the timeframe suggested by IDEQ, forward to EPA final copies of all related documents, no later than July 31, 2008:

1. IDEQ should revise forms and guidance. At a minimum, guidance should address the following issues:
  - a. Use of emissions data from monitoring and/or stack tests over generic emission factors;
  - b. When it is appropriate to consider apparent fugitive emissions as point source emissions;
  - c. When it is appropriate to include key operating parameters as enforceable requirements in the permit rather than as elements in O&M manuals;
  - d. how to implement permit shields in permits and how the implementation of the shields should be documented or explained;
  - e. How to develop monitoring, recordkeeping and reporting requirements in permits adequate to assure compliance with the underlying applicable requirements;

- f. Include the variability of emission unit operation and the availability of other monitoring provisions to ensure compliance between tests when determining the frequency of testing and monitoring;
    - g. Requiring the simultaneous monitoring of operational parameters during a source test so that these operational parameters can be monitored between tests to contribute to a determination of compliance;
    - h. Remove from all open permit actions any generic permit requirement that allows a source to operate at 120% of the tested operating rate; and
    - i. How to conduct applicant reviews of the pre-draft permit materials and how to document changes made at this stage of permit development.
2. IDEQ should develop a library of standard permit language for:
  - a. Specific emission units, control equipment, NSPS and NESHAP requirements; and
  - b. Emission rate limits to ensure that averaging period is included as part of the limit rather than as a separate monitoring requirement.
3. IDEQ should develop a checklist for initial and renewal permit actions, to ensure that permit content and procedures are consistent across the program. At a minimum, the checklist should address the following issues:
  - a. Review for obsolete permit conditions;
  - b. Review for compliance issues;
  - c. Review for newly-applicable rules, e.g. CAM, MACT;
  - d. Use of streamlining criteria;
  - e. Review for periodic monitoring;
  - f. Quality of the discussion of the legal and factual basis for permit requirements; and
  - g. How to develop monitoring, recordkeeping and reporting requirements in permits adequate to assure compliance with the underlying applicable requirements.
4. At least once each year, IDEQ should request delegation of the appropriate NSPS and NESHAP regulations from EPA Region 10, to ensure that delegations are kept up to date.
5. IDEQ should update all future statements of basis to either provide the complete legal and factual bases for permit decisions or provide a summary of each permit decision and reference other documents for further detail. In some cases it may be appropriate to append the referenced document to the statement of basis, e.g. for a PTC/administrative amendment permit action.
6. IDEQ should finalize the source testing guidance currently being developed and send a copy to EPA for review.

### III. Permit Issuance

The permits reviewed were chosen to represent different industry sectors. EPA also selected permits that were issued after the initial Title V program review, to provide a more accurate depiction of current program implementation. The permits reviewed were:

- Avista Corporation, Rathdrum Combustion Turbine Project, Permit No. T1-050109, August 7, 2006
- J.R. Simplot Company, Food Group, Caldwell, Permit No. T1-2007.0042, April 25, 2007
- Potlatch Forest Products Corporation, Wood Products – Post Falls, Permit No. T1-2007.0011, March 8, 2007

#### A. Review of Avista Corporation Permit

As part of the Title V program review for IDEQ, EPA reviewed the Tier I Operating Permit and the Statement of Basis (SB) for the Avista Corporation – Rathdrum facility – hereafter referred to as Avista. In general, the permit and SB were well laid out and easy to follow. Most descriptions (e.g. facility description, permitting history) were clear, concise and provided relevant details. The regulatory analysis sections for the NSPS Subpart GG (Section 7.2), NESHAP (Section 7.3) and for CAM (Section 7.4) provided a good description of what regulations do and do not apply to the Avista combustion turbines.

1. SB Page 9, Section 8.3. The SB states that Permit Condition 3.16 of the renewed permit has been modified to remove reference to a specific version of the QA plan for the CO CEMS. The permittee is required to follow the most recent QA plan prepared by the permittee. This approach has the benefit of allowing the QA plan to be revised in the future without requiring a permit modification. On the other hand, this introduces some ambiguity into what the QA plan may contain (although the permittee is required to make available the most recent QA plan to IDEQ upon request). It also makes it difficult for a member of the public to know what the QA plan requires either during the public comment period or at a future date when the QA plan may be revised.
2. SB Page 16, Appendix B. Footnote 2 for the Criteria Pollutant Potential Emissions Estimates table states that “Maximum potential annual emissions are based on emissions limits established in previously issued permits.” However, without having the previously issued permits available, the underlying assumptions or limitations in those permits are not evident. It would be more informative if the specific emission limits or limits on the hours of operation were specifically included in the footnote.
3. SB Page 16, Appendix B. Footnote 3 for the Hazardous Air Pollutant Potential Emissions Estimates table states “Maximum potential annual emissions based on 16,848 total hours of operation per year and ....” The rationale for 16,848 total hours is not stated. Is it a requirement of a previously issued PTC and/or based on an assumption of required maintenance downtime per year? Otherwise, one would assume PTE should be based on 8760 times two or 17,520 total hours per year.
4. SB Permit Page 6, Permit Condition 2.8. This permit condition describes a “decision tree” for conducting quarterly inspections of potential sources of visible emissions. It appears that one of the “branches” of the decision tree could potentially lead to an incomplete process. The third sentence states “If any visible emissions are present from any point of emission, the permittee shall either take appropriate corrective action as expeditiously as practicable, or perform a Method 9 opacity test.....” There is no provision for what the permittee is required to do if they choose the corrective action “branch” and the visible emission is not eliminated. The permit

condition also does not specify any qualifications for the person conducting the see/no see evaluation. One way to remedy these potential gaps is to model the permit condition after one of the recent Part 71 permits. Below is a section of the Part 71 permit for Plummer Forest Products, Inc. which addresses a similar visible emission inspection process:

### ***Plant Walkthrough***

- 4.6. *Except as provided for in Condition 4.13, once each month, the permittee shall visually survey each emission unit and any other pollutant emitting activity for the presence of visible emissions or fugitive emissions of particulate matter.*
- 4.6.1. *The observer conducting the visual survey must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to lighting and wind, and the presence of uncombined water on the visibility of emissions (see 40 CFR part 60 appendix A, Method 22);*
- 4.6.2. *For the surveys, the observer shall select a position that enables a clear view of the emission point to be surveyed, that is at least 15 feet from the emission point, and where the sunlight is not shining directly in the observer's eyes.*
- 4.6.3. *The observer shall observe emissions from each potential emission point for at least 15 seconds.*
- 4.6.4. *Any visible emissions or fugitive emissions of particulate matter other than uncombined water shall be recorded as a positive reading associated with the emission unit or pollutant emitting activity;*
- 4.6.5. *Surveys shall be conducted while the facility is operating, and during daylight hours.*
- [40 CFR § 71.6(a)(3)(i)(B)]*
- 4.7. *If the observation conducted under Condition 4.6 identifies any visible emissions or fugitive emissions of particulate matter, the permittee shall:*
- 4.7.1. *Immediately upon conclusion of the visual observation in Condition 4.6, investigate the source and reason for the presence of visible emissions or fugitive emissions; and*
- 4.7.2. *As soon as practicable, take appropriate corrective action.*
- [40 CFR § 71.6(a)(3)(i)(B)]*
- 4.8. *If the corrective actions undertaken pursuant to Condition 4.7.2 do not eliminate the visible or fugitive emissions, the permittee shall within 24 hours of the initial survey conduct a visible emissions observation of the emission point in question, for thirty minutes, using the procedures specified in Condition 3.33.1. [40 CFR § 71.6(a)(3)(i)(B)]*
- 4.9. *If any of the visible emissions observations required in Condition 4.8 or 4.10 indicate visible emissions greater than 20% opacity, the permittee shall conduct daily visible emissions observations, for thirty minutes, of the emission point in question until two consecutive daily observations indicate visible emissions of 20% opacity or less.*
- [40 CFR § 71.6(a)(3)(i)(B)]*
- 4.10. *If the Method 9 visible emissions observation required in Condition 4.8, or if two consecutive daily observations required by Condition 4.9, indicate visible emissions of 20% opacity or less, the permittee shall conduct weekly visible emissions observations of the emission point for three additional weeks.*
- [40 CFR § 71.6(a)(3)(i)(B)]*
- 4.11. *The permittee shall maintain records of the following:*

- 4.11.1. *Details of each visual survey or visible emissions observation, including date, time, observer and results for each emission unit and any other pollutant emitting activity;*
  - 4.11.2. *Date, time and type of any investigation conducted pursuant to Condition 4.7.1;*
  - 4.11.3. *Findings of the investigation, including the reasons for the presence of visible emissions or fugitive emissions of particulate matter;*
  - 4.11.4. *Date, time and type of corrective actions taken pursuant to Condition 4.7.2;*
  - 4.11.5. *Results of any Method 9 visible emissions observations conducted on the source of visible or fugitive emissions, and pursuant to Conditions 4.8 through 4.10.*  
[40 CFR § 71.6(a)(3)(i)(B)]
- 4.12. *Any observation of visible emissions in excess of Condition 3.33 is a deviation and subject to the provisions of Conditions 3.55 through 3.58.* [40 CFR § 71.6(a)(3)(i)(B)]
5. Permit Page 10, Permit Condition 2.11. Table 2.2 lists test methods the permittee should use if testing is required. However, the methods listed are not consistent with those required by the NSPS Subpart GG or the methods typically considered the most appropriate and accurate at this point in time. For example, the NO<sub>x</sub> test method shown in Table 2.2 is EPA Method 7; whereas Subpart GG specifies EPA Method 20 or EPA Method 7E and EPA Method 3 or 3A [40 CFR § 60.335(a)]. The test method in Table 2.2 for SO<sub>2</sub> is EPA Method 6; a method which is rarely used (EPA Method 6C is more commonly used now). The test method in Table 2.2 for VOC is EPA Method 25; which is not appropriate for gas turbines since the concentration of VOC is likely to be less than 50 ppm, the lower limit for which EPA Method 25 is recommended. When the VOC concentration is known or expected to be less than 50 ppm, EPA Method 25A is a more appropriate test method (see EPA Guideline Document 33 on the Emission Measurement Center website - <http://www.epa.gov/ttn/emc/guidlnd/gd-033.pdf>).
6. Permit Page 12, Permit Condition 2.18. This permit condition states “The permittee shall comply with applicable standards for recycling and emissions reduction pursuant to 40 CFR 82, Subpart F, Recycling and Emissions Reduction.” This is a “global” (or high level) citation without any indication of what the applicable standards that may apply to the facility include. An example of more specificity is a permit condition from the Part 71 permit for Plummer Forest Products, Inc.
- 3.60 *Stratospheric Ozone and Climate Protection. Except as provided for motor vehicle air conditioners (MVACs) in 40 CFR Part 82, Subpart B, the permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR Part 82, Subpart F.*
- 3.60.1. *Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR § 82.156.*
  - 3.60.2. *Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 CFR § 82.158.*
  - 3.60.3. *Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR § 82.161.*
  - 3.60.4. *Persons disposing of small appliances, MVACs, and MVAC-like appliances must comply with recordkeeping requirements pursuant to 40 CFR § 82.166. ("MVAC-like appliance" is defined at 40 CFR § 82.152.)*
  - 3.60.5. *Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to 40 CFR § 82.156.*

3.60.6. *Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances pursuant to 40 CFR § 82.166.*

*[40 CFR Part 82, Subpart F]*

7. Permit Page 14, Permit Condition 3.8. The citation for this permit condition includes only PTC No. 055-00040, 9/7/01. The text of the permit condition refers to a CFR citation from the NSPS Subpart GG. Therefore, the relevant CFR section should also be included in the bracketed citation at the end of the permit condition.
8. Permit Page 15, Permit Condition PC 3.11. This permit condition states “The maximum annual hours of operation of the facility’s two turbines shall not exceed 16,848 hours in a calendar year.” Although this permit condition implies that the maximum hours represent the sum or the cumulative operating hours of the two turbines, any ambiguity would be eliminated if the sentence was worded to explicitly state that the 16,848 hours per calendar year represent the sum of the operating hours of the two turbines.
9. Permit Pages 15 and 16, Permit Conditions 3.15.1 and 3.15.2. The citations for these permit conditions refer to 40 CFR 60, Subpart GG. The specific section of Subpart GG should be cited rather than a “global” citation to the whole subpart.

## **B Review of Simplot Permit**

As part of the IDEQ Title V program review, EPA also evaluated a second Tier I Operating Permit and Statement of Basis (SB) - for the J.R. Simplot Company, Food Group, Caldwell, Permit No. T1-2007.0042, April 25, 2007 - hereafter referred to as Simplot.

1. Information from IDEQ indicates that the Title V renewal permit for this facility was issued on January 17, 2007, as permit no. T1-050013. Subsequently, two separate administrative amendments were conducted, on March 8, 2007 and April 25, 2007. The review of the current permit and SB raised the following procedural concerns:
  - a. IDEQ’s website provides ready access to the Title V permits and their statements of basis. For this permit, the SB was not available from the website;
  - b. The permit was issued on January 17, 2007 but the SB made available for review has a different date – December 20, 2006;
  - c. The two administrative amendment permit actions were not accompanied by statements of basis to document the changes being made to the permit; and
  - d. During the March 2007 administrative amendment permit action, it appears that the expiration date of the permit was incorrectly extended beyond the five-year maximum to March 8, 2012.
2. The December 20, 2006 SB consists of only 9 pages, of which only 3 pages address substance of the renewal permit action. This SB does not contain the legal or factual bases for the requirements contained in the renewal permit. It does not appear that any effort was expended to determine if new regulations, such as CAM apply.
3. The SB does not contain an emission inventory – so it is impossible to determine if the facility is a major source of HAPs and might therefore be subject to the requirements of one or more NESHAPs. The AIRS/AFS Facility-Wide Classification Data Entry Form indicates that major source status for various criteria pollutants, yet the fields are blank for HAP major source status.

4. Permit Page 14, Permit Condition 3.3. This permit condition contains both hourly and annual emission limits. However, there is no monitoring or recordkeeping that is adequate to demonstrate compliance with these limits.
5. Permit Page 14, Permit Condition 3.3. This permit condition applies to only one of three fryers that are exhausted to a single wet ESP. IDEQ should either devise a compliance strategy that adequately addresses emissions from the No. 1 fryer or expand the emission limitation to all units that are served by the wet ESP (see EPA national guidance on this issue).
6. Permit Page 14, Permit Condition 3.4. After discussions with IDEQ, this appears to be an obsolete condition requiring compliance with the visible emissions standard (Permit Condition 2.7). Since Permit Condition 2.7 applies to all emission points, listing this requirement redundantly for just one piece of equipment is confusing.
7. Permit Page 15, Permit Condition 3.7. This permit condition requires the maintenance of an O&M manual. The parameters for the wet ESP are to be contained in the manual instead of in the permit. Furthermore, the manual is required to be kept at the facility rather than have a copy at IDEQ. This practice means that DEQ compliance staff have no means of assessing operations at the facility, and certainly the public is denied information that may be pertinent to how the facility is being operated.
8. Permit Page 17, Permit Section 5. This section addresses a natural gas-fired heater used to heat the plant. Based on the age of the heater and the heat input rating, it appears that the heater should be subject to the requirements of the NSPS, specifically 40 CFR Part 60, Subpart Dc. However, the permit contains no requirements that originate in Subpart Dc.
9. Permit Page 18, Permit Condition 6.3. This permit condition appears to be another obsolete condition that could easily be removed from the permit. There are other such permit conditions in the permit that will not be identified in this report.
10. Permit Page 19, Permit Condition 6.9. This permit condition refers to an initial compliance test but the permit does not explicitly require an initial compliance test. The condition also refers to requiring a test between October 4, 2004 and October 3, 2005 – both of these dates predate the permit issuance date. It appears that this permit condition is an unchanged artifact from the original Title V permit and should be revised to update the facility's compliance obligations.
11. Permit Page 21, Permit Section 7. This section addresses insignificant emission units at the facility. The permit also states that IEUs “are listed in the Tier I operating permit to qualify for a permit shield.” It is unclear what these IEUs are being shielded from.

## **C Review of Potlatch Permit**

The third permit reviewed as part of the IDEQ Title V program review was the Tier I Operating Permit and Statement of Basis (SB) for Potlatch Forest Products Corporation, Wood Products – Post Falls, Permit No. T1-2007.0011, March 8, 2007 - hereafter referred to as Potlatch.

1. Information from IDEQ indicates that the Title V renewal permit for this facility was issued on January 17, 2007, as permit no. T1-060110. Subsequently, one separate administrative amendment was conducted, on March 8, 2007. The review of the current permit and SB raised the following procedural concerns:
  - a. IDEQ's website provides ready access to the Title V permits and their statements of basis. For this permit, the SB was not available from the website;

- b. The permit was issued on January 17, 2007 but the SB made available for review has a different date – November 15, 2006;
  - c. The administrative amendment permit action was not accompanied by a statement of basis to document the changes being made to the permit; and
  - d. During the March 2007 administrative amendment permit action, it appears that the expiration date of the permit was incorrectly extended beyond the five-year maximum to March 8, 2012.
2. The SB did not contain an emission inventory. Consequently, it was not possible to confirm applicability for Title V major source status, HAP major status, or CAM applicability. A PTE-based emission inventory also provides the basis to judge reasonableness of monitoring in the permit. Although there was reference to the emission inventory presented by the applicant in the permit application, it was not clear if IDEQ had reviewed and concurred with the estimates and assumptions therein.
  3. The Summary of Events section of the SB does not have the final permit issuance dates.
  4. The Permitting History section of the SB seems to be missing several permits.
  5. SB Page 6, Section 8.2. The SB does not contain a discussion of the applicability of NSPS for the sanderdust-fired boiler.
  6. There is a HAP emission limit that is called a facility-wide limit for avoiding MACT, but it is located within EU3, rather than in the facility-wide section of the permit.
  7. It seems that by now there should be emission test data from tests conducted during the first permit term or earlier. These data should have been available for consideration in designing the MR&R for this permit, but there was no presentation or discussion of any test data in the SB.
  8. SB Page 8. The text indicates that there are nine CAM units, but only 8 are listed in the table.
  9. Permit Page 13, Permit Condition 3.1. Table 3.3 lists two separate allowable particulate concentrations. One is for wood fuel and the second is for natural gas fuel. The permit is not clear what the limit is when the fuels are co-fired.
  10. Permit Pages 20 and 21. Permit Conditions 5.7, 5.8, 5.9 and 5.10. These requirements seem to have been placed in the Operating Requirements section for EU5 rather than the Monitoring and Recordkeeping Requirements section. These permit conditions lack citations.
  11. Permit Page 21, Permit Condition 5.12. The HAP monitoring requirement in this permit condition refers to “the emission factors” for the sander air system, dryer and boiler – it is not clear which factors are to be used.
  12. Permit Pages 23 and 24, Section 6. There is no monitoring, recordkeeping or reporting for this emission unit. At a minimum, and assuming the fire pump engine is not used routinely, the facility should be required to maintain certifications on fuel used in the emission unit.

## **D. Recommendations**

The reviews conducted of the three renewal permits have highlighted a certain lack of consistency among the permits. The reviews have also identified concerns of both a technical and procedural nature. Many of the concerns could be resolved through implementation of the following recommendations:

1. IDEQ should refine their permit procedures to ensure that permit compliance documents, such as quality assurance plans, dust management plans and operations and maintenance plans are kept at the IDEQ location in addition to being kept at the site by the facility (see Avista comment no. 1).
2. IDEQ should develop written guidance to ensure that emission inventories adequately document assumptions and conclusions, especially those that result in emissions estimates below that suggested by continuous operation of an emission unit (see Avista comment nos. 2 and 3).
3. IDEQ should update their “see/no-see” visible emissions compliance strategy to ensure that all eventualities are represented in the outcomes addressed through permit conditions (see Avista comment no. 4).
4. IDEQ should systematically update the source test methods listed with each emission unit in the permit, to ensure that the listed test method is the most appropriate for that particular emission unit (see Avista comment no. 5).
5. IDEQ should develop a process to ensure that citations for each permit condition are complete and contain the appropriate level of detail (i.e. avoid high level citations - see Avista comment nos. 7 and 9).
6. By December 28, 2007, provide EPA with a plan to ensure that the issues noted in Sections III.B and III.C of this report do not occur in any future permit or statement of basis.

## IV. Compliance Assurance Monitoring Program

The Compliance Assurance Monitoring (CAM) program applies to pollutant-specific emissions units at Title V facilities. Applicability to CAM is based on three parameters:

1. The emissions unit must be subject to an emission limitation or standard;
2. The emissions must utilize a control device to achieve compliance with the standard; and
3. Pre-control emissions from the emission unit (on a PTE basis) must be greater than the major source threshold for that pollutant.

CAM applies to sources where the initial Title V permit application was submitted or deemed complete after April 20, 1998. For applications deemed complete prior to this date, CAM applies upon permit renewal, and if the emission unit is a *large pollutant-specific emissions unit*, CAM applies during a significant modification to the Title V permit.

The three permits reviewed by EPA are all renewal permits. Therefore, the requirements of the CAM program should have been included in the permit if all three of the above criteria are met. CAM applicability is addressed differently in each of the three permits.

### A. Review of Avista Corporation Permit for CAM Implementation

In the Avista statement of basis, Section 7.4 consists of a paragraph that describes the basis for CAM inapplicability. The section indicates that the emission units at Avista are not equipped with control devices to achieve compliance with any emission limitation or standard. The section also clarifies that the “Dry Low NO<sub>x</sub> Combustor” on the turbines are not control devices per 40 CFR §64.1. The paragraph succinctly and adequately explains why the emission units at the facility are not subject to the requirements of CAM.

### B Review of Simplot Permit for CAM Implementation

In marked contrast, the Simplot permit contains no identifiable requirements that arise from the CAM program. Furthermore, the statement of basis contains no reference to CAM. However, a perusal of the permit indicates that post-control PM emissions from the No. 1 fryer stack are limited to 47.65 tons per year. Since the stack emissions from the No. 1 fryer are directed to a Wet ESP, it is evident that pre-control emissions (on a PTE basis) are well above the major source threshold (100 tons per year) for PM. Since all three of the applicability criteria listed above are satisfied, it appears that CAM does apply for PM, and that the CAM program has not been implemented appropriately in this permit. It is likely that CAM applies to all three fryers which are exhausted through the same wet ESP.

### C Review of Potlatch Permit for CAM Implementation

The SB for the Potlatch renewal permit action does not contain a facility-specific CAM applicability analysis. For example, it is not clear why the particle dryer and boiler are not subject to CAM and several baghouses are. Although there is reference to the permit application for the CAM analysis, the agency’s determination and decision needs to be completely documented in the statement of basis.

CAM for several baghouses is monitoring pressure drop and opacity. The permit does not specify either the pressure drop range or the repeatable process for setting the range in the permit. As a result, it is not at all clear what pressure drop ranges or opacity ranges constitute compliant operations. It should also be noted that EPA no longer recommends pressure drop as a good monitoring technique for baghouses. In addition, the ranges need to be tied to compliance with the PM limits via testing or analysis – the SB does not provide the legal or factual basis for these determinations.

Condition 5.15 should be expanded to contain the complete text of the referenced portions of the CAM rule. With the existing level of citation, it is not at all evident what the source's CAM compliance obligations are. This information can be combined with some of the other monitoring requirements in the permit so all monitoring requirements are consistent.

#### **D. Recommendations**

The review of these three permits indicates that IDEQ's implementation of CAM is not consistent in either applicability or content. Given that all of these permits were finalized within a five-month period, a greater level of consistency can be expected. The Simplot and Potlatch permits provide the greatest disparity in approaches – although both permits were issued on the same day and with the same permit writer, one completely omits CAM applicability while the other permit addresses CAM partially.

In the context of these findings, immediate action is indicated. EPA recommends that IDEQ undertakes the following efforts:

1. Issue written guidance to permit staff, no later than November 30, 2007 on the need to evaluate and document CAM applicability for all initial and renewal Title V permits.
2. Issue written guidance to permit staff, no later than November 30, 2007 on the appropriate elements of CAM requirements within a Title V permit.
3. By December 28, 2007 provide EPA with a written analysis of whether CAM applies to any pollutant-specific emission unit in the Simplot permit. If the outcome of the analysis indicates that at least one of the pollutant-specific emission units is subject to CAM, IDEQ should reopen the permit by February 28, 2008 to include all applicable measures of the CAM program into the permit.
4. By December 28, 2007 provide EPA with a written analysis of how Permit Conditions 5.6 through 5.10 fully satisfy the requirements of the CAM program in the Potlatch permit. If the outcome of the analysis indicates that these permit conditions are not adequate to fully satisfy the requirements of the CAM program, IDEQ should reopen the permit by February 28, 2008 to include all applicable measures of the CAM program into the permit.

## **V. Other Issues**

### **A. Resources**

In recent discussions with IDEQ managers, it is clear that IDEQ believes that they have adequate resources to implement the Title V program. However, independent measures of performance might lead to a different conclusion. For example, IDEQ currently has four renewal permit applications that have not yet been issued and are beyond the 18-month regulatory deadline for issuance. Similarly, lack of progress to date in implementing changes to address the concerns identified by EPA in the first Title V program also lead to concern in the availability of resources to further mature Idaho's Title V program.

It should be noted that IDEQ has been suffering from staff turnover issues over the past couple of years. However, very recently, all open positions have been filled. EPA's concerns may be alleviated with the changes recommended in this report and if turnover issues stabilize over the next couple of years.

A few new practices at IDEQ should also help to move the program forward:

1. IDEQ assigns each new permit writer to a more senior permit writer. This practice should help new staff get up to speed much faster than without this level of focused help.
2. IDEQ has leveraged their training opportunities by working through their WESTAR membership to bring training to Boise where more permit writers and field compliance staff can take advantage of the training opportunities; and,
3. IDEQ has deployed their permit tracking database. Housed in a relational database, the system keeps permit issuance data that can be queried and called up through pre-set query parameters. This process is considerably more reliable and complete than the prior practice of maintaining information in a spreadsheet file. It is to be hoped that the ability to more accurately monitor in-house permit issuance milestones will enable IDEQ to issue permits in a timely fashion.

As noted in earlier sections of this report, however, EPA remains concerned about the apparent problems with permit quality assurance and consistency.

### **B Fees**

Since the inception of IDEQ's Title V program, IDEQ has been collecting fees from Title V facilities. Initially this built up a significant balance that was later reduced as the workload of initial permit issuance has tackled. At present, the account still shows a positive balance. It is IDEQ's intent to minimize the balance and have fee revenues match Title V implementation costs. Idaho has recently revised its fee rules to ensure that adequate fees are collected.

### **C Rule Changes**

As part of the communications regarding the Title V program review, IDEQ submitted copies of the changes in the IDEQ Title V rules. The changes to the rules were not reviewed as part of this program review. The rule changes will be reviewed as part of the process for approval of Idaho's Title V program, an effort that is conducted separately from these Title V program reviews.

### **D. Recommendations**

To address the issues identified in this section of the report, EPA recommends the following actions:

1. IDEQ should submit to EPA a plan for ensuring not only that the current backlog of renewal permits is issued without further delay, but that future permits (including initial, renewal, modified and amended permits) are issued in a timely manner.

2. IDEQ should submit to EPA a plan outlining measures to be taken to ensure consistency in all future Title V permits (including initial, renewal, modified and amended permits).