



**Final Report:
Southern Ute Indian Tribe Air Quality Program
Title V Program Evaluation**

Conducted by

**United States Environmental Protection Agency
Region 8
September 2018**

Table of Contents

EXECUTIVE SUMMARY.....	2
INTRODUCTION.....	3
Objective of Program Evaluation.....	3
Program Evaluation Process.....	3
Background on Status of Southern Ute Indian Tribe’s Air Quality Program.....	4
FINDINGS AND CONCLUSIONS.....	5
Summary of Good Practices.....	5
1. Permit Issuance (Initial Universe and Renewals).....	5
2. AQP’s Website.....	5
3. Permit Content.....	5
4. Statement of Basis	5
5. Recordkeeping.....	5
EPA’s Concerns.....	5
1. More Detailed Accounting of Title V Dedicated Staff Hours.....	5
2. Ensure Availability of Full SOB Online	6
AQP’s Concerns and Requests for EPA Assistance.....	6
1. Competitive Salaries.....	6
2. Trainings.....	6
3. Concurrent Review.....	6
4. Grants to Start NSR Program	6
Discussion of AQP’s Responses to Title V Program Evaluation Questionnaire.....	7
1. Title V Permit Preparation and Content.....	7
2. Monitoring.....	7
3. Public Participation and Affected State Review.....	7
4. Public Comments.....	7
5. Permit Issuance/Revision/Renewal.....	8
6. Compliance.....	8
7. Resources and Internal Management Support.....	8
Discussion of AQP’s Responses to Title V Fiscal Evaluation Questionnaire.....	8
1. Fee Collection and Tracking.....	8
2. Budgeting.....	8
Attachments:	
A. Title V Program Evaluation Questionnaire.....	9
B. Title V Fee Audit Questionnaire.....	10
C. Title V Annual Financial Data Form.....	11

EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency granted full approval of the Southern Ute Indian Tribe Air Quality Program's (AQP) Title V program, which was applicable March 2, 2012 (77 FR 15267, March 15, 2012). This is the first Title V program review that the EPA has conducted of the AQP since its approval. The program evaluation consisted of a nationally standardized Title V program evaluation questionnaire and a fiscal questionnaire that were sent to the AQP on February 13, 2018, followed by the EPA conducting a site visit at the AQP's office in Ignacio, Colorado on July 17-18, 2018. The purpose of the questionnaires and site visit was to conduct a general review of how the AQP operates its Title V program, confirming that the Title V program meets the federal requirements for an operating permit program (40 CFR part 70), conforms to EPA-issued guidance on Title V program fees and funding and recording best practices as well as any concerns.

Best practices include the AQP's issuance of 100% of their permits in a timely manner and keeping detailed records of facility information and fees collected. All this information is tracked efficiently with electronic tools to facilitate permitting and reporting of the 36 sources currently in the Title V universe. The AQP's Title V program is on track to continue to be fully self-funded from source fees collected, which pay for all Title V related operations and the four (4) full-time employees (FTE) dedicated to the Title V program. The AQP also maintains a website and includes a thorough Statement on Basis (SOB) for all their permits, making their permitting actions easily accessible and understandable for any interested parties.

Concerns of the AQP include difficulty retaining adequate FTE due to higher pay outside the program, desire for more trainings and concurrent review of Title V permit actions, and exploring EPA grant options for a New Source Review (NSR) program in the future.

The EPA concerns include the AQP maintaining a current full SOB for all permits available online, not just for initial permit issuance. The EPA also suggests, especially regarding a move towards a self-run NSR program, the AQP more clearly track Title V and non-Title V work time for employees with split responsibilities.

Overall the AQP's responses to the Title V program questionnaire and fiscal questionnaire are sufficient and reflect a well-run and effective program. The EPA does not have any major concerns with the program but will remain available to assist the AQP should any future problems arise.

INTRODUCTION

Objective of Program Evaluation

The EPA conducted this program review as part of its obligation to oversee and review permitting programs that have been approved by the EPA, and in response to recommendations from an audit of the EPA's operating permits program conducted in July 2002 by the Office of Inspector General. For the purposes of this review, the AQP is treated as a state. This is the first such review for the AQP.

The AQP operates a fully EPA approved program that allows it to implement the requirements of Title V of the Clean Air Act (CAA), including the issuance of operating permits. The EPA has a statutory responsibility to oversee the programs it approved by performing oversight duties, e.g., occasional program reviews. Such responsibilities include overseeing the activities of the program to ensure that local, regional and national environmental goals and objectives meet minimum requirements outlined by the federal regulation.

Program Evaluation Process

This program evaluation was initiated in early 2018, by the EPA sending a nationally standardized Title V Program Evaluation Questionnaire to the AQP to fill out. This was followed by the EPA review of the questionnaire responses, then by an on-site interview with the AQP. The questionnaire responses were used as the basis for discussions during the on-site visit. The questionnaire consisted of questions on general program information and specific areas relating to permit development, public participation, compliance and resource management.

This program evaluation also incorporates the EPA's review of the AQP's Title V permit application forms, permit checklists, and recordkeeping databases as well as review of the AQP's Title V fee management system. The EPA provided a separate questionnaire to the AQP to fill out for the Title V fee audit. The purpose of the fee audit is to determine whether the following are satisfied:

- sources are being billed in accordance with fee requirements and are paying the required fees;
- division of expenses is identified by the AQP between Title V and non-Title V programs;
- features are integrated into the AQP's accounting/financial management system which will identify Title V revenue and expenditures separate from other funding, and which certify the disposition of Title V funds; and
- Title V fees collected from sources are used by the AQP to pay for the entire Title V program, and no such fees are used for CAA section 105 grant matching.

The EPA's on-site visit was conducted on July 17-18, 2018 by Patrick Wauters and Donald Law. Mark Hutson, Daniel Powers, and Oakley Hayes attended the meeting for the AQP. Most of the time was spent going over how the AQP carries out its Title V responsibilities, with the AQP demonstrating its permitting and fee collecting tools as well as detailing management and staff strategies. The EPA collaborated with relevant experience from other state Title V programs. With the time remaining, the

EPA briefly reviewed two Title V source files in order to walk through the organization and composition of two permits of different complexity.

Background on Status of Southern Ute Indian Tribe's Air Quality Program

The EPA granted full approval of the AQP's Title V Program, which was applicable March 2, 2012 (77 FR 15267, March 15, 2012). As part of full approval, the EPA determined that the AQP's statutes and Title V rules, codified in the Southern Ute Indian Tribe/State of Colorado Environmental Commission's Reservation Air Code (RAC), met the requirements of the CAA and the EPA's 40 CFR part 70 (Part 70) regulations and that the AQP had adequate authority to carry out the requirements of Part 70, including enforcement of Title V permits.

The "initial universe" consisted of 42 sources for the Part 71 to Part 70 transition plan. Initial permits have been issued to all except for ten (10) sources, which obtained synthetic minor permits. In addition, five (5) new sources were added to the AQP's Title V universe and all were issued permits. Since then one (1) of these sources has obtained a synthetic minor permit. Six (6) sources have applied for renewal permits that are currently being processed. In addition, the AQP has issued 30 permit revisions. All but one (1) of the sources in the AQP's current universe of Title V sources are oil and gas related facilities.

The AQP's Title V Program consists of four (4) fulltime employees (FTE) and two (2) managers that devote a fraction of their time to Title V-related activities.

FINDINGS AND CONCLUSIONS

Summary of Good Practices

1. Permit Issuance (Initial Universe and Renewals)

The AQP has issued 100% of their initial Title V permits for their universe of sources. They have also timely processed all revisions and are in the process of issuing their first renewals.

2. The AQP's Website

The website that the AQP operates is easy to navigate and provides the most current permit version and SOB for each source. The website also includes background information on the AQP and contact information where individuals can direct further inquiries or information requests for details that are not publicly available online.

3. Permit Content

The AQP has developed a clear and consistent organization for their permits, including placeholder language and standardized applicable requirement language. This aids sources as well as the public to navigate and understand the permits.

4. SOB

The SOB that the AQP has designed fully meets the requirements for this section and gives a thorough summary of the source process, potential to emit and any information particularly pertinent to the given permit action. The unambiguous format is easy for any interested party to follow.

5. Recordkeeping

For fees and compliance, the AQP has developed an excellent electronic management system to organize and store information on all Title V sources. Sources submit all relevant information in a standardized spreadsheet form which is populated into the database and added to existing source information. From this database, the AQP can easily assess overall performance and timeliness of permit issuance and generate summaries and program reports.

The AQP also has an efficient electronic system of collecting and storing source information including permit history, emissions, applicable requirements, timelines for permit actions, and notes on facility changes. Again, this information is then easily manipulated to provide reports and future projections.

EPA's Concerns

1. More Detailed Accounting of Title V Dedicated Staff Hours

The EPA suggests, especially regarding a move towards a self-run NSR program, that the AQP more clearly track Title V and non-Title V work time for employees with split responsibilities. This will

ensure that as the AQP assumes more complex combinations of permitting duties the Title V related activities can be clearly accounted separately.

2. Ensure Availability of Full SOB Online

Currently the AQP posts a detailed SOB online along with the final permit for initial Title V sources. Subsequent permit revisions, however, include only a short SOB relevant to whatever has been changed in the permit. The new permit and new SOB replace the initial permit and detailed SOB on the AQP's website. While the previous SOB is available by request from the AQP, it is no longer accessible online. Because the AQP's initial SOB includes a complete overview of the source, we suggest this document remain available online along with the new SOB for the current permit action, or that the AQP incorporate any revision changes into the original SOB and posts the amended SOB along with the revised permit.

AQP's Concerns and Requests for EPA Assistance

1. Competitive Salaries

The AQP discussed on multiple occasions the lack of sufficient funds to offer competitive salaries to hire and retain employees. Given comparable jobs in industry and in other branches of tribal government, the AQP feels it offers relatively little financial incentive. This poses serious difficulties in meeting a continuous and aggressive work load, as experienced and efficient employees are hard to attract and retain, leading to gaps in work coverage between hires and periods of lower productivity as new hires are trained.

2. Trainings

The AQP mentioned that it would be beneficial if the EPA offered more permitting training that could benefit the AQP staff.

3. Concurrent review

The possibility of concurrent Title V review interests the AQP, as it could potentially reduce the timeline for final Title V permit issuance by up to 30 days.

4. Grants to start NSR program

In the future, the AQP aspires to run an autonomous NSR program. While the start-up period would likely require assistance from grants, the program would ideally become self-sufficient and no longer rely on EPA grant funds. It was also pointed out that by taking over tribal NSR, the AQP would be reducing the EPA's workload.

Discussion of AQP's Responses to Title V Program Evaluation Questions

The EPA has not identified any issues arising from the AQP's questionnaire responses. Therefore, the EPA will not attempt to provide a detailed description in this report of those responses. Below is a summary (see Attachment A for details).

1. Title V Permit Preparation and Content

The AQP does not have any serious concerns with permit drafting. While many of the initial Title V applications that the AQP processed required additional information before a permit could be drafted, the AQP believes that completeness of applications should improve greatly for renewal applications going forward. Improvements in their permit template and citation system should also see a further reduction in processing time and improved consistency of permits. The permit template includes placeholders for all potential applicable requirements and standardized New Source Performance Standard (NSPS) and Maximum Achievable Control Technology (MACT) language with citations that can be easily incorporated into the draft permits.

Sources demonstrate compliance prior to permit issuance by submitting an initial compliance form as part of their Title V permit application. For quality assurance of the permit, the AQP relies on internal review by permitting staff followed by EPA review.

The AQP's SOB for their initial permits includes a discussion of the facility and process, potential to emit, applicable requirements and enhanced monitoring, recordkeeping and reporting. For permit revisions and renewals, only changes to the permit are discussed.

2. Monitoring

The AQP ensures permits contain adequate monitoring by applying engineering judgement on good monitoring practices while staying within all rules and guidelines currently established, as well as constantly changing rules. The AQP has included enhanced monitoring for sources subject to NSPS GG and plans to add enhanced monitoring on renewal permits for MACT HH and ZZZZ.

3. Public Participation and Affected State Review

The AQP publishes public notices on draft Title V permits as required by the rules. One (1) local and one (1) regional newspaper are used. The AQP also maintains a website that includes the most recent Title V permit action and SOB. For further information on a source's permit history (e.g., application, previous permit action), the AQP can be contacted directly to arrange a visit or receive information by email or physical mail.

4. Public Comments

The AQP has received comments on 51% of permits. Of those permits that received comments, 100% have subsequently had at least one (1) change made. The AQP sometimes collaborates with permittees on a pre-draft review prior to public comment to address any comments the source may have. Affected states (including tribes) are notified of permit actions if within 50 miles of the source. The AQP states that no comments have ever been received from an affected state or tribe.

5. Permit Issuance/Revision/Renewal

When the EPA approved the AQP's Title V program in 2012, there were 42 existing Title V sources needing permits. These have all since been issued a Title V permit (except for ten (10) sources that were issued synthetic minor permits), along with five (5) other new Title V sources. Six (6) sources have applied for renewal permits, which are currently being processed. The AQP has also processed 30 Title V permit changes: 3% significant modifications, 43% minor modifications and 54% administrative amendments. The AQP has completed all permit actions within the Part 70 timeframes with the exceptions of several minor revisions that have been held up by an ongoing enforcement action.

6. Compliance

The AQP has developed forms for reporting deviations, annual compliance certifications and semi-annual monitoring reports. All sources use these forms. Sources are required to certify whether compliance is continuous or intermittent, as per current federal rules.

The AQP defines "deviation" as any situation in which an emission unit fails to meet a permit term or condition as determined by observation or through review of data obtained from any testing, monitoring or recordkeeping established in accordance with Reservation Air Code (RAC) 2-110(5) and (6). Deviation reports must be submitted within ten (10) days. The AQP reviews 100% of deviation reports, semi-annual reports and annual compliance certifications.

7. Resources and Internal Management Support

The AQP established a Title V fee of \$140/ton in 2014, set to increase with the Consumer Price Index. The 2017 fee rate is \$143.87/ton. Emission fees are tracked through a department database.

The AQP currently employs four (4) staff members dedicated full-time to Title V program activities. Several other members of the AQP management work part-time on Title V tasks, which is estimated for Title V accounting purposes.

Discussion of AQP's Responses to Title V Fiscal Evaluation Questionnaire

1. Fee Collection and Tracking

Sources typically mail checks to the AQP for processing. Fee collection is tracked in an Excel spreadsheet database listing source information, emissions and fees due and received. A streamlined format allows source submissions to be quickly and easily uploaded to database. The AQP keeps detailed records of all Title V funds to ensure no Title V fee funds are spent outside of the Title V program. See Attachment B for details.

2. Budgeting

The AQP has developed a budget to fully fund the Title V program with Title V fees starting in 2018. Previously the program has been supplemented by the CAA section 103 grant funds. By increasing the Title V fees in 2015 and getting all Title V sources permitted, the AQP estimates it will be able to continue fully funding the Title V program with Title V fees alone. See Attachment C for details.

Attachment A:
Title V Program Evaluation Questionnaire

EPA

Title V Program Evaluation

Questionnaire

Table of Contents

A. Title V Permit Preparation and Content.....	3
B. General Permits (GP).....	6
C. Monitoring.....	7
D. Public Participation and Affected State Review.....	8
E. Permit Issuance / Revision / Renewal.....	15
F. Compliance.....	19
G. Resources & Internal Management Support.....	24
H. Title V Benefits.....	27

A. Title V Permit Preparation and Content

1. What percentage of your initial applications contained sufficient information so the permit could be drafted without seeking additional information? What efforts were taken to improve quality of applications if this percentage was low?

22%

AQP believes that renewal applications will contain sufficient information without additional information being requested because operators will likely recycle the complete applications from their initial permits due to facilities having minimal changes.

- Y N 2. For those Title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

It is not common for the Air Quality Program (AQP) to have a significant amount of time pass between application submittal and drafting a permit. Updated permit applications have been requested for this reason in a few isolated instances, such as when issuance of a permit by the AQP was delayed by EPA due to an on-going compliance investigation.

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

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

Operators submit an Initial Compliance (ICOMP) form as part of a complete Title V permit application in order to certify initial compliance before the permit is issued.

- Y N a. In cases where the facility is out of compliance, are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

This situation has not come up yet; however, if a source indicated non-compliance in the ICOMP form during the permit application process, milestones and dates for returning to compliance may be incorporated into the Title V permit.

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

The AQP has continually updated our permit language, permit organization and permit citations. The most recent permit issued in 2017 used a completely re-designed permit template, including updated permit language and a simplified citation system.

The AQP has developed boilerplate templates for MACT and NSPS rules to expedite the permit issuance process and ensure consistency between permits.

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

All permits go through an internal QA review by permitting staff prior to the public comment of the draft permit, the EPA administrative review, and final permit issuance.

6. Do you utilize any streamlining strategies in preparing the permit such as:

- Y N
- a. Incorporating test methods, major and minor New Source Review permits, MACT's, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule? Explain.

The permit template includes placeholders for all potentially applicable requirement and boilerplate NSPS and MACT language drafted with permit citations that can be easily formatted for inclusion in a draft permit.

- Y N
- b. Streamlining multiple applicable requirements on the same emission unit(s) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe.

Emission units with similar regulatory applicability can be grouped into the same NSPS, MACT, or CAM permit section.

- c. Describe any other streamlining efforts.

The permit template and permit citation format were developed for ease of permit assembly and to allow for the addition and removal of requirements without significant changes to the citation formatting.

7. What do you believe are the strengths and weaknesses of the format of the permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

Strengths: The AQP's simple permit citation format and use of a standardized permit template with regulatory requirement placeholders, provides consistency in the citation and location of permit terms and conditions. Permit revisions can also be completed with no changes to the permit sections and little to no changes in the permit citations from the previous permit version. Standardized permit citations and templates also provide consistency between permits for operators with multiple Title V permits. This is an added benefit for sources with environmental compliance databases or Excel based compliance tracking systems, since the permit citations for administrative, general and many applicable requirements will never change.

Weaknesses: In some cases, permit citations for NSPS and MACT rules could differ between permit versions and for permits issued to operators with multiple sources.

This is due to the absence of placeholders for individual NSPS and MACT rules in the NSPS and MACT sections of the permit template.

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

A statement of basis is provided as a supplement to each permit issued and for each permit revision. Statements of basis issued for initial permit issuance or issuance of a permit renewal include a discussion of the facility and process, applicability to all potentially applicable requirements, enhanced monitoring, recordkeeping and reporting, and the source's potential to emit. For permit revisions, only the requested permit revision and revisions to the permit are discussed.

9. Does the statement of basis explain:

Y N

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

If enhanced monitoring, recordkeeping or reporting is added to the Title V permit, this will be discussed in the statement of basis.

Y N

- b. applicability and exemptions, if any?

A list of potentially applicable regulations and a discussion of why the source is or is not subject to each of these regulations is included in the statement of basis.

Y N

- c. streamlining (if applicable)?

Y N

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

11. Do any of the following affect your ability to issue timely initial Title V permits: (If yes to any of the items below, please explain.)

Y N

- a. Pending revisions to underlying NSR permits

Y N

- b. Compliance/enforcement issues

Pending EPA enforcement at a Title V source on the Reservation prevented the Air Quality Program (AQP) from issuing a timely permit for the facility. It is also possible that enforcement initiated by the AQP could delay permit issuance.

Y N

- c. EPA rule promulgation awaited (MACT, NSPS, etc.)

Promulgation of significant revisions to the MACT standards Subpart HH and Subpart ZZZZ delayed the Air Quality Program's issuance of Transition Group 1 initial Part 70 permits.

Y N

- d. Issues with EPA on interpretation of underlying applicable requirements

Issues with the interpretation of NSPS OOOO and MACT Subpart HH delayed the issuance of the initial draft Title V permit for the Williams Ignacio Gas Plant.

Y N

- e. Permit renewals and permit modification (i.e., competing priorities)

Y N

- f. Awaiting EPA guidance

i. If yes, what type of guidance?

Y N

ii. If yes, have you communicated this to EPA?

A. If yes, how did you request the guidance?

12. Any additional comments on permit preparation or content?

No

B. General Permits (GP)

Y N

1. Do you issue general permits?

a. If no, go to next section

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

Y N

2. In your agency, can a Title V source be subject to multiple general permits and/or a general permit and a standard "site-specific" Title V permit?

a. What percentage of your Title V sources have more than one general permit?
_____ 0 _____ %

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

a. How does the public or regulated community know what general permits have been written? (e.g., are the general permits posted on a website, available upon request, published somewhere?)

4. Is the 5 year permit expiration date based:
 - a. on the date the general permit is issued?
 - b. on the date you issue the authorization for the source to operate under the general permit?
5. Any additional comments on general permits?

No

C. Monitoring

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3) and 70.6(c)(1)) if monitoring is not specified in the underlying standard or CAM?

If AQP determines that the monitoring of a certain subpart is not sufficient to determine compliance with an applicable requirement, additional monitoring requirements can be added under the enhanced monitoring, recordkeeping and reporting authority of Reservation Air Code 2-110(5)(b). AQP has included enhanced monitoring for permits containing requirements under NSPS Subpart GG and plans to include enhanced monitoring to renewal permits for MACT HH and MACT ZZZZ.

Y N

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

Deficiencies in monitoring is identified during the drafting of permit or during compliance and enforcement. No formal guidance has been developed to identify when monitoring is selected for permits. The Air Quality Program has issued several technical guidance documents providing agency interpretations of how the agency recommends complying with MACT rules that have monitoring, recordkeeping and reporting deficiencies.

Y N

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

Y N

3. How often do you “add” monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

AQP has added monitoring to all permits containing requirements of NSPS Subpart GG. These requirements were added to the initial Part 70 permits so the Air Quality

Program has not had the ability gauge if compliance has increased as a result of the inclusion of enhanced monitoring.

Y N

4. Has the division ever disapproved a source's proposed CAM plan?

5. What is the approximate number of sources that now have CAM monitoring in their permits? Please list some specific sources.

Three sources have Title V permits with CAM monitoring

- *BP America Production Company – Treating Site #1*
- *BP America Production Company – Treating Site #2*
- *BP America Production Company – Treating Site #4*

D. Public Participation and Affected State Review

Public Notification Process

1. What is your protocol for providing public notification?

Once a draft SOB and permit are completed, the public review process is initiated. The Air Quality Program uploads the draft permit and SOB to the Tribe's Air Quality Program website, and has a public notice published in the Durango Herald and Southern Ute Drum newspapers. Affected programs, EPA, and the facility's permit holder are all notified individually.

Y N

2. Has this protocol changed following 81 FR 71613 (10/18/2016), which changed the requirement for public notice from print to e-notice?
 - a. If so, how does the public notice protocol differ before and after 81 FR 71613?

Originally, the Air Quality Program was not publishing current public notices on the Tribe's website. Newspaper publishing was the sole way of notifying the public. After 81 FR 71613, the program created a new section on the Tribe's website to upload current public notices.

Y N

3. Have you developed a physical mail or email list of people you think might be interested in Title V permits you propose? [e.g., public officials, concerned environmentalists, citizens]
 - a. How does a person get on the list?

The Air Quality Program's SUIT/CO Environmental Commission maintains a list of individuals who have requested notifications of rulemakings and actions

proposed by the Environmental Commission. The program currently does not have a list of people to notify of Title V permits proposed. To be on the Environmental Commission list, an individual must send a formal request to the Air Quality Program.

- b. How does the list get updated?

The Environmental Commission list is updated as new individuals request to be placed on the list by the Air Quality Program's Air Quality Analyst – Environmental Commission. It is the responsibility of individuals to contact the Air Quality Program if their contact information changes.

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

The Environmental Commission list is not currently based on individual sources, but could be modified if needed. The list is maintained indefinitely.

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

Notification of proposed revisions to the Reservations Air Code, proposed rulemakings and important actions taken by the Environmental Commission.

- Y N 4. Aside from avenues described above, do you use other means of public notification?

If yes, what are they?

- Y N 5. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

- Y N 6. Do your public notices clearly state when the public comment period begins and ends?

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

Public notice advertisement in local newspapers prior to and for the full duration of the comment period. Publication in Spanish would also be a consideration for public notice in the four corners region

- Y N a. Are the approaches you use for public notice effective?

The Air Quality Program (AQP) has not received any comments from members of the public, only industry representatives and affected programs. Publication of public comment notices in the Southern Ute Drum newspaper are highly visible and the Drum is a free publication that is easily accessible to residents of Ignacio, Colorado. Public comment notices posted in the Durango Herald only run for one day due to it being cost prohibitive to publish notices for numerous days. The Durango Herald is accessible to all area residents in print and on line but costs money to purchase and a one-day public notice publication may not be effective.

All public notice listings are available on the AQP website. The lack of public comment on draft permits may be partially due to the majority of Title V facilities being located in remote areas far removed from homes and often on Tribal land that is only accessible by Southern Ute Tribal membership.

- Y N 8. Do you provide notices in languages besides English? Please list.

Public Comments

- Y N 9. Have you ever been asked by the public to extend a public comment period?

- Y N a. If yes, did you normally grant them?

NA

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

NA

- Y N 10. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? Describe.

- Y N 11. Do you provide the public a copy of the statement of basis if they request it? If no, explain.

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

51%

- Y N 13. Over the years, has there been an increase in the number of public comments you receive on Title V permits? Is there any pattern to types of sources getting comments?

- Y N 14. Have you noticed any trends in the type of comments you have received? Please explain.

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

100% of the permits that received comments (51%) have had at least one change made.

- Y N 15. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?

Y N

16. Do your rules require that any change to the draft permit be re-proposed for public comment?

- a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?

The Reservation Air Code (RAC) does not require the Air Quality Program to re-public notice draft permits as a result of any changes made to address public comments. All public comments and changes made to a permit as a result of public comments become part of the public record through issuance of Response to Comment documents. However, if any substantial changes were made to a draft permit as a result of public comments, the Air Quality Program would consider re-public commenting a permit. As part of determining if changes were substantial, the Air Quality Program will evaluate if the changes may fall under the definition of significant permit revision, as defined in RAC § 1-103(61)

EPA 45-day Review

Y N

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

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

NA

Y N

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

NA

Permittee Comments

Y N

19. Do you work with the permittees prior to public notice?

If time allows, the Air Quality Program may work with permittees on the draft permit prior to public notice to address questions related to routine permit preparation. The Air Quality Program has utilized these "pre-draft reviews" for more complex permits to determine which compliance options are elected when applicable requirements have several options for compliance, to identify errors and to ensure that permit language is written clearly and concisely. The Air Quality Program has found that pre-draft reviews can expedite the permit process so that the public comment period can be used to address comments that are more substantial. Any significant permitting questions and comments will not be addressed prior to the public comment period, to ensure that these types of questions and any decisions/changes to the permit are documented in a Response to Comments document for the public record.

- Y N 20. Do permittees provide comments/corrections on the permit during the public comment period? Any trends in the type of comments? How do these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

No trends in the type of comments. The majority of comments are insubstantial and only result in correction of typographical errors. There have been no comments that affected the program's ability to issue timely permits.

Public Hearings

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

A public hearing shall be held if a permit has significant public interest or if the Tribe deems it appropriate for any other reasons.

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

Yes, if there is significant public interest in a permit, the Air Quality Program is required by RAC 2-109(1) to hold a public hearing

Availability of Public Information

- Y N 22. Do you charge the public for copies of permit-related documents?

If yes, what is the cost per page?

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

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

23. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?

A member of the public would need to contact any of the AQP staff and:

Schedule a time to visit AQP's office and review documents

and/or

Request that permit-related information be sent to them

Y N

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

Permit-related information is not available at any location other than the AQP office.

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

AQP is able to respond to requests for information within one business day.

Y N

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

- a. Where is this information stored?

Y N

- b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

Y N

- c. Have you ever extended the public comment period because of a request for a public hearing?

Y N

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

- a. What is available online?

Copies of each final permit and statement of basis, Air Quality Program permitting and compliance forms, guidance documents and the contact information for each Title V Program staff member. Specific backing information for each permit, such as the permit applications, are not available on the website.

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

The website is updated with each new public comment period being opened and with the issuance of each new permit, permit revision, and permit renewal.

There is information about how the public can submit comments during the comment period on the website.

Y N

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

Y N 28. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

Y N 29. Do you have any resources available to the public on public participation (booklets, pamphlets, webpages)?

Yes, hyperlinks to the EPA and CDPHE air permitting programs are posted on the webpage as resources.

Y N 30. Do you provide training to citizens on public participation or on Title V?

Y N 31. Do you have staff dedicated to public participation, relations, or liaison?

a. Where are they in the organization?

NA

b. What is their primary function?

NA

Affected State Review and Review by Indian Tribes

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

Affected programs are notified of draft permits via electronic mail on or before the time that the AQP provides such notice to the public (RAC 2-108(2)(b)).

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

Affected states are defined in the Reservation Air Code. The AQP has a list of affected states that it keeps up to date for notification purposes. Each program on this list is notified as required under the Reservation Air Code.

33. How do you notify tribes of draft permits?

Tribes are treated as affected programs and are notified via electronic mail by the times specified for affected programs in the Reservation Air Code.

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

0%

35. Is there any pattern to the type of draft permit that gets affected State / Tribal comment? Are there common themes in comments from affected States or Tribes?

NA

36. Suggestions to improve your notification process?

Any additional comments on public notification?

No

E. Permit Issuance / Revision / Renewal

Initial Permit Issuance

Y N 1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable timeframe? If not, what can EPA do to help?

All initial permits have been issued.

Permit Revisions

2. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:

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

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

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

Y N d. Group processing of minor modifications?

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

NA

If not, why not?

4. For those initial permits that have been issued, and where the permitted facility has undergone a change, how many changes to Title V permits have you processed?

30

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

- i. Significant

3%

- ii. Minor

43%

- iii. Administrative

54%

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

- i. Off-permit

AQP does not open permits strictly for off-permit changes. Instead, notes are made in AQP's tracking spreadsheet and the next time a permit is opened for any type of revision, the off-permit change is made during this time.

- ii. 502(b)(10)

0

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

- a. a significant permit revision?

The AQP has only received one (1) significant permit revision, and has not completed its processing.

- b. a minor revision?

86

- c. an administrative revision?

21

- Y N
6. Have you taken longer than the part 70 timeframes of 18 months for significant revision, 90 days for minor permit revisions and 60 days for administrative? Explain.

The AQP has not taken longer than the Part 70 timeframes for significant and administrative revisions. Due to an ongoing enforcement action, the AQP has taken longer than the Part 70 timeframe for minor revisions.

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

AQP has created standard operating procedures to outline each step in the revision process. In addition, the AQP has developed boilerplate regulatory language and templates for all notifications in an effort to streamline the revision process.

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

The Air Quality Program utilizes a Microsoft Excel tracking tool.

- Y N
9. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.

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

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

- Y N
11. Do you require applications for minor permit modifications to contain a certification by a responsible official, consistent with 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?

12. When public noticing proposed permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative description of change, highlighting, different fonts).

A narrative description and direct listing of the changed citations are used to identify what portions are being revised.

13. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment?

AQP plans to add a section to the public notice that clearly states which sections of the permit are open to comment.

Permit Renewal or Reopening

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

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

The Air Quality Program has developed a new permit template and new boilerplate regulatory language that can be directly pasted into the permit to allow for highly efficient permit drafting times.

Y N 16. Do you have a different application form for a permit renewal compared to that for an original application? (e.g., are your application renewal forms different from the forms for initial permits)

a. If yes, what are the differences? Are 1st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal?

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

NA

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

NA

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

NA

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

The Air Quality Program currently has one permit renewal application for processing. Seventeen more permit renewal applications are due to the program by the end of September 2018.

Y N 21. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can EPA do to help?

No permit renewals have been processed to date. The Air Quality Program does not anticipate any trouble processing renewals within 18 months.

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

F. Compliance

1. Deviation reporting:

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

Deviations from permit requirements where the underlying applicable requirement contains a definition of “prompt” or otherwise specifies a time frame for reporting deviations that is prior to the due date for the semi-annual report.

For deviations where the underlying applicable requirement fails to address the timeframe for reporting, the following types of deviations must be reported prior to the semi-annual monitoring report:

- *For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in an applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made by telephone, verbal, or facsimile communication by the close of business the next working day, upon discovery of the occurrence, and in writing within 10 working days from the occurrence;*
- *For emissions of any regulated air pollutant, excluding those listed in § 2-110(7)(b)(i) of the Reservation Air Code, that continue for more than 2 hours in excess of permit requirements, the report must be made by telephone, verbal, or facsimile communication by the close of business the next working day, upon discovery of the occurrence, and in writing within 10 working days from the occurrence;*

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

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

NA

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

Y N

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

Y N

ii. If not, do you allow the responsible official to “back certify” deviation reports? If you allow the responsible official to “back certify” deviation reports, what timeframe do you allow for the follow up certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

NA

2. How does your program define deviation?

“Deviation” means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or recordkeeping established in accordance with § 2-110(5) and (6) of this code. For a situation lasting more than 24 hours which constitutes a deviation, each 24 hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

- (a) A situation where emissions exceed an emission limitation or standard;*
- (b) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;*
- (c) A situation in which observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit;*
- (d) A situation in which an exceedance or an excursion, as defined in 40 CFR Part 64 occurs.*

Y N

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

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

Y N

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

Y N

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

NA

Y N

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

Y N

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

Y N

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

- Y N vi. failure to collect data/conduct monitoring where such failure is “excused”:
- Y N A. during scheduled routine maintenance or calibration checks
- Y N B. where less than 100% data collection is allowed by the permit
- Y N C. due to an emergency
- Y N vii. Other? Describe.

3. Do your deviation reports include:

- Y N a. the probable cause of the deviation?
- Y N b. any corrective actions taken?
- Y N c. the magnitude and duration of the deviation?

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

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

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

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

- a. deviation reports?

The AQP ensures that deviation reports are submitted within the allowed timeframe (10 days). AQP reviews for completeness and makes sure a certification of truth, accuracy, and completeness, signed by a responsible official is attached to the submittal. Additionally, the AQP will fully review and evaluate all reported deviations for the source during the next scheduled compliance inspection.

- b. semi-annual monitoring reports?

Upon receipt of six month monitoring reports, AQP reviews for completeness and ensures that a certification of truth, accuracy, and completeness is attached. AQP checks to make sure that there are no compliance issues that need to be immediately addressed and evaluates if there is information that needs to be relayed to permitting staff. These reports are thoroughly reviewed during the source’s next scheduled compliance evaluation.

- c. annual compliance certifications?

Upon receipt of annual compliance certifications, AQP reviews for completeness and ensures that a certification of truth, accuracy, and completeness is attached. AQP checks to make sure that there are no compliance issues that need to be immediately addressed and evaluates if there is information that needs to be relayed to permitting staff. These reports are thoroughly reviewed during the source's next scheduled compliance evaluation.

8. What percentage of the following reports do you review?

- a. deviation reports

100%

- b. semi-annual monitoring reports

100%

- c. annual compliance certification

100%

9. Compliance certifications

Y N

- a. Have you developed a compliance certification form? If no, go to question 10.

Y N

- i. Is the certification form consistent with your rules?
ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

Compliance is based on whether compliance is continuous or intermittent, including whether the compliance monitoring was continuous or intermittent.

Y N

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

100%

Y N

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

Y N

v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

10. Excess emissions provisions:

Y N

a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it:

Y N

i. Provide relief from penalties?

Y N

ii. Provide injunctive relief?

Y N

iii. Excuse noncompliance?

Y N

b. Does your program include a SIP excess emissions provision? If no, go to 10.c. If yes does it:

Y N

i. Provide relief from penalties?

NA

Y N

ii. Provide injunctive relief?

NA

Y N

iii. Excuse noncompliance?

NA

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

Y N

i. the emergency defense provision?

Y N

ii. the SIP excess emissions provision?

NA

Y N

iii. NSPS/NESHAP SSM excess emissions provisions?

11. Is your compliance certification rule based on:

Y N

a. the 1997 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or:

Y N

b. the 1992 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

12. Any additional comments on compliance?

No

G. Resources & Internal Management Support

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

a. If so, what are they?

2. Are there any initiatives instituted by your management that recognize/reward your permit staff for getting past barriers in implementing the Title V program that you would care to share?

NA

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

Management works as part of the QA process for permit issuance.

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

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

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

NA

b. What is your Title V fee?

\$143.87/ton

6. How do you track Title V expenses?

With Microsoft Excel based cuff accounting and budgeting workbooks. Detailed budget reports are provided to the Air Quality Prorgam by the Southern Ute Finance Department and these reports are used to balance the budget.

7. How do you track Title V fee revenue?

For tracking Title V fee revenue, the AQP has developed standard operating procedures to be followed for review, deposits, and filing. Once the paperwork is filed, data is input into a Microsoft Excel spreadsheet and uploaded to the AQP’s newly developed Air Records Management System (ARMS) database.

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

One dedicated permit writer (Air Quality Scientist) and one dedicated QA reviewer (AQ Technical Manager). Combined FTE's of these two staff are 1.2 FTE's

Y N

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

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

The Air Quality Technical Manager has 0.2 FTE hours allocated to working on Title V activities. Hours are not tracked, but estimated based on the number of hours allocated in the CAA 103 grant budget and the Title V tribal budget for different Air Quality Program activities.

b. How do you track the time allocated to Title V activities versus other non-Title V activities?

The Air Quality Program has four staff members that allocate 100% of their time to performing Title V program activities. Time spent on other activities is minimal and not tracked.

Y N

10. Are you currently fully staffed?

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

Thirty Title V permits per permit writer (30:1).

12. Describe staff turnover.

Staff turnover in the Air Quality Program is moderately high and significant resources must be allocated for the hiring and training of new staff members.

a. How does this impact permit issuance?

This created delays and challenges during the early stages of Title V program implementation in 2012 but this is not expected to be of concern currently due to the establishment of strong Standard Operating Procedures, boilerplate permit content, and a standardized permit template.

b. How does the division minimize turnover?

The program has been working with the Tribal Government to approve pay grade increases. This has helped the program retain employees more effectively than in the past.

Y N

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

a. If so, please describe.

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

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

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

New permit writers are trained with an in-house training plan and attend free training courses with the Air Pollution Training Institute (APTI) and San Juan School of Energy in Farmington, NM. Existing permit writers attend APTI trainings and when funds allow have attended trainings offered by Trinity Consulting.

17. Does your training cover:

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

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

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

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

Provide free trainings and webinars to state and tribal agencies and continue to fund courses offered by APTI.

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

The program has one dedicated permit writer and a dedicated QA reviewer. The AQP manager may also QA review Title V permits and provide guidance and recommendations to staff.

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

Employee retention.

Environmental Justice Resources

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

If so, may EPA obtain copies of appropriate documentation?

- Y N 22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?
- Y N 23. Have you provided EJ training / guidance to your permit writers?
- Y N 24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., socio-economic status, minority populations, etc.)
- Y N 25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.

H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:
 - Y N a. NSPS requirements?
 - Y N b. The stationary source requirements in the SIP?
NA
 - Y N c. The minor NSR program?
 - Y N d. The major NSR/PSD program?
 - Y N e. How to design monitoring terms to assure compliance?
 - Y N f. How to write enforceable permit terms?
2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:
 - Y N a. Your source universe including additional sources previously unknown to you?
 - Y N b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?
 - Y N c. Your stationary source emissions inventory?
 - Y N d. Applicability and more enforceable (clearer) permits?
3. In issuing the Title V permits:

Y N

a. Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.

Y N

b. Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.

Yes, one of the reasons the AQP developed boiler plate permitting templates was to ensure consistency between permits.

4. Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:

Never Occasionally Frequently Often

- a. prior to submitting an application
- b. prior to issuing a draft permit
- c. after issuing a final permit

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance with the following requirements prior to implementing Title V:

- a. NSPS requirements (including failure to identify an NSPS as applicable)
- b. SIP requirements
- c. Minor NSR requirements (including the requirement to obtain a permit)
- d. Major NSR/PSD requirements (including the requirement to obtain a permit)

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

Y N

a. increased use of self-audits?

Y N

b. increased use of environmental management systems?

Y N

c. increased staff devoted to environmental management?

- Y N d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?
- Y N e. increased resources devoted to compliance monitoring?
- Y N f. better awareness of compliance obligations?
- Y N g. other? Describe.
- Y N 7. Have you noted a reduction in emissions due to the Title V program?
- Y N a. Did that lead to a change in the total fees collected either due to sources getting out of Title V or improving their compliance?
- Y N b. Did that lead to a change in the fee rate (dollars/ton rate)?
8. Has Title V resulted in improved implementation of your air program in any of the following areas due to Title V:
- Y N NA a. netting actions
- Y N b. emission inventories
- Y N c. past records management (e.g., lost permits)
- Y N d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)
- Y N e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc.
- Y N f. clarity and enforceability of NSR permit terms
- Y N g. better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)
- Y N NA h. emissions trading programs
- Y N NA i. emission caps
- Y N NA j. other (describe)
- Y N 9. If yes to any of the above, would you care to share how this improvement came about? (e.g., increased training; outreach; targeted enforcement)?

Y N 10. Has Title V changed the way you conduct business?

Y N a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.

Y N NA b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.

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

The Air Quality Program has a close working relationship, due to the small size of the program and our office location being proximal to the permitted sources.

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

Our program has increased the number of newspapers that publish public notice of Draft Title V permits.

Y N e. Do you use information from Title V to target inspections and/or enforcement?

Y N f. Other ways? If yes, describe.

Y N 11. Has the Title V fee money been helpful in running the program? Have you been able to provide:

Y N a. better training?

Y N b. more resources for your staff such as CFRs and computers?

Y N c. better funding for travel to sources?

Y N d. stable funding despite fluctuations in funding for other state programs?

Y N e. incentives to hire and retain good staff?

Y N f. are there other benefits of the fee program? Describe.

The fee per ton fee structure has the benefit of providing an incentive for emission reductions at Title V sources.

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

Good Practices not addressed elsewhere in this questionnaire

Are any practices employed that improve the quality of the permits or other aspects of the Title V program that are not addressed elsewhere in this questionnaire?

EPA assistance not addressed elsewhere in this questionnaire

Is there anything else EPA can do to help your Title V program?

Attachment B:
Title V Fee Audit Questionnaire

State/local Title V Program Fiscal Tracking Evaluation Document

<p>Basic Questions for All Permitting Authorities</p>	<p>More Detailed Questions -- Factors to Support a Permitting Authority's Answer to the Basic Questions (Note: these are not all-inclusive, and some ideas will not apply in all cases)</p>	<p>Possible Resources Available</p>
<p>1. Title V Fee Revenue</p>		
<p>Can the Permitting Authority show that sources are being billed in accordance with its fee requirement(s), and that sources are paying fees as required?</p> <p><i>Yes, the Tribe updates the fee rate yearly according to the Consumer Price Index and the calculation revising the fee are posted on the Air Quality Program Website. The revised fee amount is then updated in the Air Quality Program's Microsoft Excel based fee calculation spreadsheet.</i></p>	<p>Where are the fee collection authority and the fee rate(s) specified? Is the Permitting Authority including reference to these fee requirements in its Title V permits?</p> <p><i>Fee collection authority and the base fee rate are specified in Reservation Air Code §§ 2-118 and 2-119. The fee requirements are referenced in the Part 70 Administrative Requirements section of each Title V permit</i></p> <p>List the fee rate(s) formulae applicable for the time period being reviewed. (Include emission based fees, application fees, hourly processing fees, etc.)</p> <p><i>The Air Quality Program (AQP) charges emission fees on a ton per year rate. This is the only fee structure currently used by the AQP. A base fee of \$50.00 per ton of criteria pollutant/HAP emissions per year is established in the Reservation Air Code (§119(1)(a)); however, the fee rate increase to \$140.00 per ton was approved by the SUIIT/CO Environmental Commission in 2014 and this rate is adjusted annually using the Consumer Price Index.</i></p> <p>Does the Permitting Authority anticipate any significant changes to its fee structure?</p> <p><i>The Air Quality Program (AQP) does not anticipate any significant changes to its fee structure, but has authority in Reservation Air Code 2-118 to establish other types of fee structures if necessary to ensure the program is funded. The AQP also has the ability to increase or decrease</i></p>	<p>Req's/Auth.: State/local Title V program legislation & regulations</p> <p>Permit ref's: Permits state has written/submitted to EPA</p> <p>Fee Rate(s): State/local Title V program submittal, and then verify w/ Permitting Authority that info is up-to-date</p> <p>Billing/Payments: Permitting Authority records. Emission data may be in AIRS. If some fees are hourly, there should be some direct labor tracking mechanism (see accounting system, below).</p>

	<p><i>the ton per year fee rate if needed to sufficiently fund the program.</i></p> <p>What is the current status in States/locals with requirements to balance income & expenditures of the Title V program annually (i.e., must rebate any overage of fees, etc.)?</p> <p><i>The Air Quality Program is required to provide Title V program budget updates to the SUIIT/ CO Environmental Commission, demonstrating that Title V program income is sufficient and appropriate in funding the program.</i></p>	
--	---	--

1. Title V Fee Revenue - Continued

	<p>Examine documentation of how the annual fees for sources are determined. Audit several sources' bills for accuracy.</p> <ul style="list-style-type: none"> • Are appropriate (actual or potential) emission records used for \$/ton based fees? How are the Permitting Authority and its sources determining actual emissions for fee purposes? <p><i>The Air Quality Program audits each annual emission fee report for accuracy, including review of supporting emission calculations.</i></p> <ul style="list-style-type: none"> • Are records kept (and used) for any hourly based fees? <p>No</p> <ul style="list-style-type: none"> • Review similar documentation for other types of fee mechanisms. <p>NA</p> <p>Billing...</p> <ul style="list-style-type: none"> • How is the Permitting Authority notifying sources of the fees owed and due dates for payment? <p><i>Due dates for fee payment are specified in the Part 70 Administrative Requirements section of each Title V permit. The Air Quality Program</i></p>	
--	--	--

	<p><i>does not bill sources, as emissions each year are based on the source's actual emissions in tons per year. The Reservation Air Code (RAC) also allows for a source to pay fees based on Potential to Emit, however the program is planning to remove this option from the RAC due to the need to capture actual emissions for emission inventory development purposes. The AQP does credit or charge sources for overpayment and under payment from the previous year's emission fee payment.</i></p> <ul style="list-style-type: none"> • Discuss how incoming payments are recorded to the appropriate accounts (receivings tracking). <p><i>The Tribe's finance department has an account code for depositing Title V emission fees into the Air Quality Program's (AQP) Title V budget account. The Air Quality Program forwards all emission fee checks to the finance department to be processed and routed into the Title V program budget account. The checks are accompanied by a memo from the AQP along with a Memo including the source owner, source name, permit number, check number, and check amount. The AQP later verifies the deposit with the finance department. The AQP also tracks annual fee payments using an internal database which has a mapped uploading feature for capturing data from completed Microsoft Excel based emission fee form submittals.</i></p>	
1. Title V Fee Revenue - Continued		
	<p>Payments...</p> <ul style="list-style-type: none"> • Are the sources paying the total fees charged each year? <p><i>Yes, the Air Quality Program has had only a small number of sources determined to underpay on fees owed. Underpayment are billed to the source during the next calendar year's fee payment.</i></p> <ul style="list-style-type: none"> • Are they paying on time? <p><i>Yes, the Air Quality Program has had very few late emission fee payments.</i></p>	

	<ul style="list-style-type: none"> • If there's a collection problem, how is the Permitting Authority addressing it? <i>No fee collection issues to date.</i> • Are late fees being assessed? If so, are the late fees being credited to the Title V accounts? <i>Yes, late fees will be assessed and credited to the Title V program budget account.</i> 	
2. Title V Expenditures		
<p>Is the Permitting Authority identifying division of expenses between Title V and non-Title V programs?</p> <p><i>Yes, Title V and non-Title V expenses are tracked and budgeted separately.</i></p>	<p>What matrix is the Permitting Authority using to differentiate Title V activities from non-Title V activities?</p> <p><i>The Air Quality Program has separate budgeting spreadsheets, accounting codes and budget accounts established to track Title V and non-Title V activities separately.</i></p> <p>Direct labor:</p> <ul style="list-style-type: none"> • If used by State/local program, review time sheets and instructions given to employees as to how to code information into the time sheet. If time sheets are not used, investigate method that State/local program uses to differentiate Title V and non-Title V direct labor. <p><i>The Air Quality Program has four employees that work 100% for the Title V program and two employees that work part time for the Title V program. Time is not tracked for the four full time Title V employees because they work exclusively on Title V activities. The amount of time spent by the two part time employees on non-Title V activities is budgeted as FTE's in the program's EPA CAA 103 grant budget. Time not allocated in the program's EPA grant budget is time dedicated to Title V program activities.</i></p>	<p>If used by State/local program, sample time sheets and instructions given to employees; equivalent records for alternate direct labor differentiation methods.</p> <p>Accounting system records showing that administrative/ clerical personnel costs are accounted for in the Title V program</p> <p>Accounting system records showing that non-labor costs (travel, equipment, office space costs, etc.) are accounted for in some fashion and a portion is billed to Title V.</p> <p>EPA Guidance includes: "Matrix of Title V-Related and Air Grant-Eligible Activities, Information Document," Office</p>

	<ul style="list-style-type: none"> • Ensure that accounting system is set up to utilize the various coding information. <p><i>The AQP has a separate budget set up with the Tribe's finance department for Title V salaries and expenses. These budgets use several detailed budgeting account codes to ensure expenses are well tracked.</i></p> <ul style="list-style-type: none"> • Analyze time sheets/instructions (and/or other direct labor differentiation method) for conformance with the matrix of acceptable Title V activities <p><i>Program costs that are outside of the acceptable Title V activities are budgeted in the EPA CAA 103 grant budgets for non-Title V activities.</i></p>	of Air & Radiation, May 31, 1994
2. Title V Expenditures - Continued		
	<p>Direct non-labor:</p> <ul style="list-style-type: none"> • Does the Permitting Authority utilize an allocation system that separates travel and equipment costs for Title V and non-Title V functions? <p><i>Yes, travel, equipment, and all other costs are for Title V and non-Title V functions are budgeted and tracked separately through the use of accounting codes.</i></p> <ul style="list-style-type: none"> • If so, are the allocations in accordance with the Permitting Authority's Title V/ non-Title V activity separation? <p><i>Yes</i></p> <ul style="list-style-type: none"> • If not, are these included as part of indirect costs? (Direct non-labor needs to be addressed somewhere.) <p>Indirect labor & non-labor:</p>	

	<ul style="list-style-type: none"> • How are indirect labor & non-labor costs apportioned between Title V vs. non-Title V accounts? (Indirect costs include parts of secretarial & managerial overhead, paper & supplies, space, utilities, generalized computers, etc., that is not addressed as direct labor/non-labor) <p><i>No indirect costs (IDC) of the Title V program are paid using Title V fee revenue. IDC is absorbed by the Tribe and charged to Clean Air Act 103 and Clean Air Act 105 grant budgets. By law the Tribe is allowed to use up to 30% of grant funding to pay IDC but instead negotiates a 25% cost match for IDC by only using 5% of funding available to pay IDC.</i></p> <p><i>Certain expenses outlined in this question are not considered IDC, but direct support costs, such as copier and office supplies and certain computer equipment.</i></p>	
3. Accounting System (i.e., the system that provides for analysis of the Title V program revenue and expenditure information gathered above)		
<p>Has the Permitting Authority integrated features into its accounting/financial management system which will:</p> <ul style="list-style-type: none"> • identify Title V fee revenues separate from other funding? <p><i>Yes, all Title V fee revenue is deposited into a Title V only budget account managed by the Air Quality Program and the Tribe's finance department.</i></p>	<p>Describe the accounting structure that the Permitting Authority uses to differentiate Title V \$ from other funds. [i.e., govt. fund, enterprise fund, etc. -- for more detail on options, see the U of MD report.]</p> <p><i>The Air Quality Program uses several accounting code schemes for differentiating between Title V and other program funds. Each expenditure for Title V and non-Title V activities is coded with an accounting code, department code, fund code (Tribal or Grant fund) and project code.</i></p> <p><i>The accounting code assigns/describes the type of expenditure (e.g. labor, non-labor etc.) the department code describes the air quality program (e.g. Title V, monitoring program, etc.), the fund code describes if the budget is a grant or tribal budget and the project code describes the specific budget to be billed, dependent on the fiscal year (e.g. Clean Air Act 103 Grant EPA 1658 budget, Tribal Title V budget, etc).</i></p>	<p>Review sample reports/specific reports for the time period being reviewed.</p> <p>For background: <u>Overview of CLEAN AIR Title V Financial Management and Reporting, A Handbook for Financial Officers and Program Managers</u>, Environmental Finance Center, Maryland Sea Grant College, University of Maryland, 0112 Skinner Hall, College Park, MD 20742, January 1997, [Publication Number UM-SG-CEPP-97-02]</p>

<ul style="list-style-type: none"> • identify Title V expenditures separate from other expenses? <p><i>Title V expenditures from the Title V budget are tracked separately from non-Title V expenses.</i></p> <ul style="list-style-type: none"> • produce management reports, periodically and as requested, which the Permitting Authority will be able use to certify as to the disposition of Title V funds? <p><i>The Tribe's finance department regularly provides detailed budget reports to the Air Quality Program. The program uses these reports to balance cuff accounts to track expenditures.</i></p>	<p>Does the accounting system have separate categorization for Title V and non-Title V funding and expenses?</p> <p><i>Yes, Title V funding expenses are budgeted separately from other program budgets. A small amount of monies are allocated in the Clean Air Act 103 grant for performing Title V activities such as reporting to EPA; however, these expenditures are tracked separately from Title V fee money expenditures. Title V fee revenue is used to cover Title V program labor costs.</i></p> <p>If yes, are these features being used to track Title V monies separate from non-Title V monies?</p> <p><i>Yes. The Air Quality Program independently tracks received Title V monies from fee payment and this is also tracked by the Tribe's finance department.</i></p> <p>If no, does the Permitting Authority keep any separate records that identify Title V monies separate from non-Title V monies? Could such information potentially be integrated into an accounting/financial management system?</p> <p><i>Yes, the Air Quality Program and Tribe have an accounting/financial management system.</i></p>	
---	---	--

4. Separation of Title V from §105 grant and grant match funding

<p>Can the Permitting Authority confirm that the Title V fees collected from sources are used to pay for the entire Title V program, and that no Title V fees are used as match to the CAA section 105 Air</p>	<p>Determine the federal §105 grant award received, and the amount of state/local funds used during the time period being reviewed.</p> <p><i>No federal §105 grant awards are used to fund Title V program activities.</i></p> <p>Determine the Title V fees collected (and Title V funds available, if</p>	<p>Grant files -- FSR's for applicable years. (See appropriate EPA Region grant & project manager staff)</p>
--	--	--

<p>Program grant?</p> <p><i>Yes, the Air Quality Program and Tribal Finance department track all expenditures for Title V and the CAA section 105 grant and can adequately demonstrate Title V monies are used exclusively for Title V program activities.</i></p>	<p>carryover of Title V fees is allowed by state/local regulations) during the time period being reviewed.</p> <p><i>Title V fee revenue is allowed to carryover according to Tribal finance policies and any monies remaining at the end of each fiscal year are rolled over into the next fiscal year budget.</i></p> <p>Determine Title V expenditures during the time period being reviewed.</p> <p><i>Title V expenditures can be tracked for each fiscal year or calendar year.</i></p> <p>Ensure that adequate non-Title V state/local funds were available to provide required match to the federal grant.</p> <p><i>The Air Quality Program maintains records sufficient to demonstrate that adequate non-Title V funds are available to fund non-Title V activities. Non-Title V activite</i></p> <p>Ensure that sufficient Title V funds were available to pay for the Title V program (i.e.--Title V program is self supporting)</p> <p><i>The Air Quality Program maintains records sufficient to demonstrate that adequate Title V funds are available to fund Title V activities.</i></p>	<p>Permitting Authority accounting system reports showing revenue and expenditure summaries for Title V, grant, and other activities</p>
--	--	--

Attachment C:
Title V Annual Financial Data Form

ATTACHMENT C

Example Annual Financial Data Form for 40 CFR Part 70

Permitting Authority: _____

Annual Period: ____ / ____ / ____ to ____ / ____ / ____ (MM/DD/YYYY)

Annual Program Revenue		
A	Total Program Revenue (Fees Paid by Part 70 Sources)	\$
Annual Presumptive Minimum Cost Calculation		
B	Total Emissions of "Regulated Pollutants (for presumptive fee calculation)"	tons
C	Presumptive Minimum Fee Rate During Period (\$/ton)	\$ per ton
D	Total Greenhouse Gas (GHG) Cost Adjustments (as applicable)	\$
E = (B*C)+D	Presumptive Minimum Cost for the Program	\$
A < E or A ≥ E	Compare Total Program Revenue to Presumptive Minimum Cost Enter: "Less Than" or "Greater Than" or "Equal To"	
Annual Program Costs		
F	Direct Labor Costs ¹	\$
G	Other Direct Costs ²	\$
H = F+G	Total Direct Costs	\$
I	Known Indirect Costs ³	\$
J = K*L	Calculated Indirect Costs ⁴	\$
K	Indirect Rate	%
L	Total Cost Base for the Part 70 Program	\$
M = I or J	Total Indirect Costs	\$
N = H+M	Total Program Costs	\$
O = A - N	Annual Operating Result <i>(Report deficits in parentheses)</i>	\$

¹ This is the sum of all direct labor costs, including regular payroll, overtime payroll, leave, fringe, and any other administrative surcharges.

² This is the sum of all other direct costs, including travel, materials, equipment, contractor, and any other costs directly allocable to the part 70 program.

³ Indirect Costs may either be known or calculated. If known, enter on this row; if calculated, skip to the next three rows.

⁴ If Indirect Costs are calculated, enter the result here, and enter the rate and base below. Accounting or budgeting personnel may be able to provide additional information on or assistance with calculating Indirect Costs.

Program Balance of Accounts (Report deficits in parentheses)		
P	Beginning of Year Balance ⁵	\$
Q = O	Annual Operating Result	\$
R	Fee Revenue Transferred In (describe in comments)	\$
S	Non-Exchange Revenue Transferred In (describe in comments)a- Informational Only	\$
T	Fee Revenues Transferred Out (describe in comments)	\$ ()
U = O+Q+R-T	End of Year Balance	\$

COMMENTS:

Use this section to describe any changes in accounting methods or program elements that affect the fee program, categories of revenue or expenses that do not fit into any of the listed categories or apply across multiple categories, transfers in or out, or any unusual activities or circumstances relevant to fees administration. Attach additional pages if needed.

⁵ This is the prior year's "End of Year Balance."