March 20 , 2002

Mr. Wallace McMullen
Clean Air Chair
Ozark Chapter/Sierra Club
2508 Mohawk Drive
Jefferson City, MO 65101

Dear Mr. McMullen:

Thank you for your letter of March 9, 2001, on behalf of the Ozark Chapter of the Sierra Club, concerning potential deficiencies in the construction or implementation of Missouri's title V operating permit program. In the December 1, 2000 *Federal Register* (65 FR 77376), EPA solicited comments on perceived title V program and program implementation deficiencies. Pursuant to that notice, EPA is required to respond by letter addressing each of the issues raised in your March 9, 2001 letter. In addition to this response, a notice will appear in the *Federal Register* on March 25, 2002, responding to those comments which EPA has determined, pursuant to 40 CFR 70.10(b), identify deficiencies with Missouri's operating permit program.

We have carefully considered the concerns raised in your March 9, 2001 letter and determined that three issues justify a Notice of Deficiency in Missouri's title V operating permit program. Our response to each of your remaining concerns is enclosed. This letter addresses only the comments which specifically relate to the Missouri Title V program and does not address those comments which are more general in nature or which do not assert specific deficiencies in the program.

We appreciate your interest and efforts in ensuring that Missouri's title V operating permit program meets all federal requirements. If you have any questions regarding our analysis, please contact Ms. Harriett Jones, Environmental Engineer, Air Permitting and Compliance Branch, Air, RCRA, and Toxics Division, U.S. Environmental Protection Agency Region 7 by telephone at (913) 551-7730 or by email at jones.harriett@epa.gov .

Sincerely,

Signed by Carol Kather for

William A. Spratlin, Director
Air, RCRA, and Toxics Division

Enclosures: 1. Response to comments
2. October 12, 2001 letter from MDNR to EPA Region 7

cc: Roger Randolph,
Missouri Dept. of Natural Resources

The following is in response to your March 9, 2001 comments on Missouri's title V program.

The comments under the heading "***Applicability***" in your letter raised three separate issues. First, the concern was raised that Missouri's regulatory definition of major stationary source is more narrow than EPA's. The federal regulations at 40 CFR §70.2 define *"Emissions unit"* as *"any part or activity of a stationary source..."*; *"Stationary source"* as *"any building, structure, facility, or installation which emits or may emit any air pollutant..."*; and *"Major source"* as *"any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control) belonging to a single major industrial grouping (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987."* The three critical elements of the major source definition are: 1) common control; 2) contiguous or adjacent; and 3) same industrial type. The Missouri regulations define the term *Installation* in 10 CSR 10-6.020(2)(I)7 as *"All source operations including activities that result in fugitive emissions, that belong to the same industrial grouping (that have the same two (2)-digit code as described in the Standard Industrial Classification Manual, 1987)*, *and any marine vessels while docked at the installation, located on one or more contiguous or adjacent properties and under the control of the same person (or persons under common control)."* Part 70 installations are defined in 10 CSR 10-6.065(1)(D) in terms consistent with the federal definition of *"Major source"* in 40 CFR §70.2. Despite the use of slightly different terminology, the state definition is not narrower in scope than the federal regulatory definition, and no deficiency exists.

The second issue raised under this heading pertains to non-attainment areas. The comment correctly states that Missouri's regulation does not include the specific emission thresholds for sources in ozone transport regions, carbon monoxide non-attainment areas, and particulate matter (PM_{10}) non-attainment areas in their definition of major stationary sources subject to Part 70. This does not constitute a deficiency because there are no ozone transport regions, particular matter (PM_{10}) non-attainment areas, or carbon monoxide non-attainment areas in Missouri. Missouri's regulations at 10 CSR 10-6.020(2)(N)(5.) define the following non-attainment areas within the State: *"non-attainment area for ozone - Franklin, Jefferson, St. Charles and St. Louis Counties and the City of St. Louis; non-attainment area for lead - the city of Herculaneum in Jefferson County, and the Dent, Liberty and Arcadia townships in Iron County."* Missouri has made a commitment to EPA, in a letter dated October 12, 2001 (a copy of which is enclosed), that in their next cycle of regulation revisions, they will add the omitted non-attainment area definitions to their Part 70 installation regulations, so that if, in the future, any such areas are designated within the State, the applicability provisions will be in place.

The third concern discussed under this heading relates to exempted types of units. The comment correctly points out that only the first two of the insignificant activities exempted under 10 CSR 10-6.065(3)(D) are derived directly from part 70. However, the remaining types of emissions units and installations listed in the state regulations were evaluated and approved by EPA in accordance with the provisions allowed by 40 CFR §§70.4(b) and 70.5(c), the latter of which reads in part: *"The Administrator may approve as part of a State program a list of*

insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application." The commenter did not raise any specific issues with regard to the any of the specific types of sources on the previously approved list. Therefore, no deficiency is identified by this comment.

The comment under the heading "***Fugitive Emissions,***" stated that Missouri's regulations do not ensure that fugitive emissions will be addressed in permits, and cites 10 CSR 10-6.065(1)(D) as the basis for this concern. The regulation cited, 10-6.065(1)(D) contains the definition of a Part 70 installation, and is relevant to Part 70 applicability determination, but not necessarily to Part 70 permit application or permit content. It is consistent with the federal definition of a major stationary source subject to Part 70, which may be found at 40 CFR §70.2, *"Major source . . .(2) The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source."* [See also 40 CFR §51.166(b)(1)(iii).]

The state regulations require that in permit applications and permits, fugitive emissions be treated in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. 10 CSR 10-6.065(6)(B)3.C.I. specifies that applications include information on *"All emissions of pollutants for which the installation is a part 70 source, and all emissions of any other regulated air pollutants."* Missouri's Program Description, which was submitted to EPA at the time of program approval, states in section IVA. Technical Contents of MAOPP Applications, that *"Emissions data must be provided for each emissions unit for all regulated air pollutants, including both fugitive and non-fugitive emissions."* Therefore, this comment does not identify a program deficiency.

Several issues are raised under the heading "***Compliance***." The first comment under this heading expresses concerns regarding the frequency of submission of annual certifications and semi-annual and annual reports. Permits must include provisions requiring the submission, at least annually, of certifications during the permit term. This federal requirement may be found at 40 CFR §70.5(c)(9)(iii) and specifies that the submissions be *"no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority."* Missouri's regulations provide at 10 CSR 10-6.065(6)(B)3.J.(III) that all permit applications must include a *"schedule for the submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement."* Thus, regarding the frequency of certification submissions, the state rules and the federal regulations are equivalent.

Missouri's regulation at 10 CSR 10-6.065(6)(C)1.C.(III)(a) requires that all permits issued include a requirement to submit a report of all required monitoring every six months. 10-6.065(6)(C)1.C.(III)(c) requires *"In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated."* 10-6.065(6)(C)3.D. requires that

"progress reports" be *"submitted semiannually, or more frequently if specified in the applicable requirement or by the permitting authority."* EPA is satisfied that Missouri's regulations afford sufficient flexibility to obtain reports more frequently than semiannually where needed.

The second comment under the heading "***Compliance***" expresses a concern regarding the lack of specificity regarding the schedule of compliance requirement which appears at 10 CSR 10-6.065(6)(C)3.C. and reads *"The permit must include a schedule of compliance, to the extent required."* Compliance schedules are required to be included in permits for sources that are not in compliance at the time of permit issuance. EPA does not agree that this represents a deficiency because 10 CSR 10-6.065(6)(B)3.I.(III) specifies in detail the items which must be incorporated into a compliance schedule.

The third comment expresses concern over the fact that the state regulations pertaining to progress reports do not include a reference to 40 CFR §70.5(c)(8). There is no requirement to expressly reference the federal citation in the state regulation. The substantive requirements describing progress report content and schedules for submission specified in the federal regulation are equivalently described in the state regulation at 10 CSR 10-6.065(6)(B)3.I.(IV).

The next comment under this heading states that Missouri's regulations at 10 CSR 10-6.065(6)(C)3.E. governing compliance certification requirements are not equivalent to the federal requirements at §70.6(a)(3). The pertinent federal requirements, which are found at §70.6(a)(3) (c)(5)(iii) (A) through (D), require that compliance certifications include the identification of each term or condition in the permit; identification of the method(s) or other means used for determining compliance; compliance status for each term or condition, and whether compliance was continuous or intermittent; and such other facts as the permitting authority may require. Missouri's regulations at 10 CSR 10-6.065(6)(C)3.E.(III)(a) through (e) includes all of these requirements, and is thus equivalent to the federal rules. Therefore, no deficiency exists.

The commenter also expressed the concern that the Missouri regulations do not include a *"safeguards against false statements in sec. 113(c)(2) of the Act*." The state's equivalent safeguards against making false statements is in the Missouri Revised Statutes, §§643.191.1 and 2., which specifies the penalties for making statements known to be false. There is no deficiency in Missouri's Title V program with regard to this issue.

The last comment under this heading correctly points out that the state regulations do not specifically include a requirement, in accordance with 40 CFR §70.6(c)(5)(iii)(C), that compliance certifications *"identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred."* While it is true that Missouri's regulations do not expressly refer to excursions or exceedances under Part 64 requirements, they allow the State to include other compliance certification provisions as needed, and include nothing that would prevent Missouri from incorporating this specific requirement into standard permit language used in all permits issued. Missouri has agreed to address this concern by committing to add the following

clarifying language to all future permits: *"All deviations and Part 64 exceedances and excursions must be included in the compliance certifications submitted annually,"* and is now routinely incorporating this requirement into all title V operating permits.

Under the headings "***Reporting***"and "***Reporting of deviations from permit requirements***", concerns are expressed regarding the adequacy of prompt reporting of deviations. The federal regulation at 40 CFR §70.6(a)(3)(iii)(B) requires that the permitting authority *"define 'prompt' in relation to the degree and type of deviation likely to occur and the applicable requirements."* Missouri's regulations, at 10 CSR 10-6.065(6)(C)1.C.III(c), require that deviations resulting from emergencies be reported within two days; deviations that pose an imminent and substantial danger to public health, safety or the environment be reported as soon as practicable; and other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report be reported on the schedule specified in the permit.

Missouri routinely includes permit conditions requiring all deviations to be reported within ten days of their occurrence. This requirement appears in the following permits: Noranda Aluminum, issued April 24, 2001; Conoco-Riverside Products Terminal, issued June 8, 2001; and Union Electric/AmerenUE-Meramec Plant, issued June 8, 2001. In a discussion of prompt reporting of deviations in the July 13, 1996 Federal Register, Volume 60, Number 134, pages 36083-36093), EPA states *"Although state and county permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit"*, and further states *"prompt should generally be defined as requiring reporting within two to ten days of the deviation."* EPA concludes, therefore, that Missouri's regulations and permits are not deficient in this regard.

Additional comments included under the heading "***Reporting of deviations from permit requirements*** " pertain to 10 CSR 10-6.050, *Start-up, Shutdown, and Malfunction Conditions*. This state regulation is a State Implementation Plan (SIP) rule, and was not promulgated pursuant to title V. Therefore, it is beyond the scope of the solicitation for comments. No title V deficiency was identified with regard to this comment.

The comments under the heading "***Reopening for Cause***" point out that Missouri's rules do not specifically require that each permit issued describe circumstances that would warrant reopening for cause. The federal requirement at 40 CFR §70.7(f)(1) requires that *"each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit."* Missouri's regulations at 10 CSR 10-6.065(6)(E)6. correctly describe the conditions which would constitute cause for reopening a permit. These include, but are not limited to, additional applicable requirements under the Act becoming applicable to the installation with less than three years remaining on the term of the permit and/or the permitting authority or the administrator determining that the permit must be reopened and revised to assure compliance with applicable requirements. While the state regulation does not include a requirement that those conditions which would constitute cause for reopening the permit be expressly listed in each permit, nothing in the state regulations prevents inclusion of this information in permits. Therefore, to address this concern, Missouri is now

including in all title V operating permits standard language listing the specific conditions which warrant reopening of a permit.

In the second paragraph under this heading, the commenter states that Missouri's regulation *"adds an additional ground for reopening not listed in 70.7(f)(1), i.e. when the Administrator objects in response to a public petition under 70.8(d)."* Actually, this is not an additional ground for reopening for cause; §70.8(d) specifies that *"the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in §70.7(g),"* which is titled *"Reopenings for cause by EPA."* Thus, this is a legitimate cause for reopening, in addition to those listed in §70.7(f). Further, the commenter expresses concern that too much time is allowed by Missouri's regulations for issues to be resolved in cases of reopenings; however, EPA finds no instances where the state's regulations allow more time than is allowed by the federal regulations. The judicial review addressed by 10 CSR 10-6.065(6) (E)6.D, which states that *"both the determination to reopen the permit and the revised permit terms"* are subject to judicial review, upon issuance of the revised permit, and to which the commenter objects, is not prohibited by, nor inconsistent with, federal requirements. The time frames for reopenings specified in the Missouri regulations (*i.e.,* 18 months) are consistent with those specified in part 70. No deficiency is determined to exist with regard to this issue.

The commenter correctly describes the requirements specified in 10 CSR 10-6.065(6)(F)1.D.(II) but does describe in what way this section is believed to be deficient. This section states, in part, that *"If the permit was issued after the administrator's forty-five (45)-day review period, and prior to any objection by the administrator, the permitting authority shall treat that objection as if the administrator were reopening the permit for cause. In these circumstances, the petition to the administrator does not stay the effectiveness of the issued permit, and the permittee shall not be in violation of the requirement to have submitted a complete and timely permit application."* This is consistent with 70.8(d) which states that *"a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection...the source will not be in violation of the requirement to have submitted a timely and complete application."* Therefore, the state's regulations are equivalent to the federal requirements, and no deficiency exists.

The commenter expresses the belief that 10 CSR 10-6.065(6)(E)6.E. inappropriately allows continuation of the permit shield during reopening, and claims that this is not allowed by §70.7(f). However, the state and federal requirements are consistent. The state's rules require that if a permit is issued, and is then determined to require reopening, the issued permit and all of its terms and conditions, including the permit shield, remains in effect until the permit is revoked or reissued, "*unless the permitting authority specifically suspends the permit shield on the basis of a finding that this suspension is necessary to implement applicable requirements. If this finding applies only to certain applicable requirements or to certain permit terms, the suspension shall extend only to those requirements or terms."* This is not inconsistent with §70.7(f), and no deficiency is found to exist.

The comments under the heading "***Revocation and termination***" express the concern that Missouri's criteria for revoking a permit for cause are more restrictive than EPA's, and also raises as a concern a terminated source's ability to apply for a new permit. 40 CFR §70.6(a)(6) requires that all permits include provisions stating that *"any permit noncompliance constitutes a violation*" and *"is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application."* Consistent with this requirement, 10 CSR 10-6.065(6)(C)1.G.(I) requires all permits to contain a provision requiring the permittee to *"comply with all the terms and conditions of the permit"* and a statement that *"Any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, for permit termination, permit revocation and reissuance, permit modification or denial of a permit renewal application."* Although 10 CSR 10-6.065(6)(E)8 lists typical types of circumstances which would warrant revocation of a permit, such as repeated noncompliance, failure to disclose material facts, or knowingly submitting false information, this section does not include language expressly stating that this is an exhaustive list. The overarching requirement (see above) specified by 10 CSR 10-6.065(6)(C)1.G.(I) allows permit terminations, revocations, and other actions in response to *"any noncompliance."* Therefore, the state's regulations do not afford any additional degree of immunity for noncompliance.

With regard to a source's ability to reapply for a permit subsequent to their permit having been terminated by the permitting authority, there is nothing in the federal regulations that prohibits this. Merely submitting an application, however, does not automatically guarantee a source the right to operate. Where justified, the permitting authority may deny the source the right to operate. Therefore, with regard to the issues raised under this heading, the Missouri's regulations are not deficient.

The comment under the heading "***Severability***" suggests that the state regulations do not protect the unchallenged parts of the permit from involvement in the appeals process. EPA does not find this to be the case. The source of the federal requirement is 40 CFR §70.6(a)(5) which states that each permit must contain a statement *"to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit."* Missouri's requirement, which reads as follows and which is included in all permits issued, is: *"The permit shall include a severability clause to ensure the continued validity of uncontested permit conditions in the event of a successful challenge to any contested portion of the permit."* EPA finds that this statement of the requirement is not deficient. Missouri has, however, voluntarily revised their standard severability language to more clearly communicate the effect of an appeal. All title V operating permits now include the following statement: *"Any condition or portion of this permit which is contested, becomes suspended or is ruled invalid as a result of any legal or other action shall not invalidate any other potion of or condition of this permit."*

The first comment under the heading "***Violation***" expresses the belief that the state regulation at 10 CSR 10-6.065(6)(C)1.G.(I), which states that *"any noncompliance with a permit condition constitutes a violation"* of the permit, should be revised to also state that such a violation would constitute a violation of the Act. This is not necessary, however, because the state regulation at 10 CSR 10-6.065(6)(C)2.A. states that all federally enforceable conditions in a

permit are *"enforceable by the permitting authority, by the administrator, and by citizens under section 304 of the Act."*

The second comment under this heading raises concerns that the state rules limit the grounds for revocation and termination more narrowly than the federal regulations by requiring *"a pattern of unresolved and repeated noncompliance"* together with a refusal to take appropriate action. The federal requirement at 40 CFR §70.6(a)(6)(i) states that *"Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modifications; or for denial of a permit renewal application."* Missouri's rules state at 10 CSR 10-6.065(6)(C)1.G.(I) states that *"any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, for permit termination, permit revocation and reissuance, permit modification or denial of a permit renewal application."* Missouri provides additional descriptions of the grounds for termination or revocation of a permit in 10 CSR 10-6.065(6)(E)8.A including failure to pay civil or criminal penalties; failure to disclose relevant material facts; endangerment of public health, safety or the environment; or a pattern of unresolved and repeated noncompliance. The state regulations are substantively equivalent to the federal requirements, and no deficiency exists with regard to this comment.

The comments under the heading "***Fees***" expressed the concern that Missouri's state regulations do not specifically require that each operating permit issued contain language explicitly requiring payment of annual fees, and that permits issued by Missouri do not routinely include this requirement. Missouri's regulations at 10 CSR 10-6.110, *Submission of Emission Data, Emission Fees and Process Information*, do require payment of annual fees by permitted facilities. EPA agrees that this requirement should be expressly stated in each permit, and has made this comment on several proposed permits in 2001, including those for Independence Power and Light-Blue Valley, Wheeler Truck Trailer, ICI Explosives, Nesco and Dana/Perfect Circle. Missouri now incorporates standard language in all title V operating permits requiring the payment of annual emission fees per ton of regulated air pollutant emitted by April 1 of each year based on the emissions produced during the previous calendar year determined from information provided in the facility's Emission Inventory Questionnaire (EIQ) in accordance with the fee schedule established by Missouri Revised Statutes §643.079(l). Among the recently issued and proposed permits in which this language has been included are Federal Mogul, National Graphics, Nordenia and K & R Wood Products. EPA concludes, therefore, that this issue has been satisfactorily resolved and does not represent an outstanding deficiency in Missouri's Title V program.

The comment also raises the concerns that Missouri's fee structuring is inconsistent with federal requirements, that no requirement is included requiring fee increases keyed to the Consumer Price Index, and that the amounts of fees collected are insufficient. The specific fee requirements specified in 40 CFR §70.9, including increases keyed to the Consumer Price Index, are applicable to programs using the presumptive minimum fee amounts. Missouri does not use the presumptive minimums. States with approved programs have the option of providing a detailed fee demonstration explaining how the permitting authority's program costs will be

covered by fee collections. At the time of program approval, EPA reviewed and approved the detailed fee demonstration provided by Missouri. In addition, EPA again reviewed Missouri's fee program during the 2000 program review. In the program review Final Report, dated February 2001, concluded that the fees collected were adequate to cover the costs of operating the program at that time. No changes to the system were recommended.

Finally, the concern is expressed that increased fees were not being effectively used as a penalty on pollution. Opportunities for the assessment of civil and/or criminal monetary penalties for statutory, regulatory, or permit violations exist but they are not encompassed in the annual emissions fee systems. The purpose stated in the Clean Air Act for the title V emissions fee program is to require sources subject to part 70 to pay an annual fee (or the equivalent over some other period) sufficient to cover all *"reasonable (direct and indirect) costs"* required to develop and administer the permit program. Since EPA has determined that Missouri's fee program is adequate for this purpose, no program deficiency exists.

The comment under the heading "***Reasonably anticipated operating scenarios***" expresses the view that the Missouri rules are deficient because 10 CSR 10-6.065(6)(C)1.I does not contain the assurance that each reasonably anticipated operating scenario *"meet all applicable requirements"* as does 40 CFR 70.6(a)(9)(iii). However, the following statement appears in the state regulations at 10 CSR 10-6.065(C)1.I.: *"The permit shall include terms and conditions for reasonably anticipated operating scenarios identified by the applicant and approved by the permitting authority."* 10 CSR 10-6.065(6)(C)1. requires that every operating permit issued by the permitting authority must *"contain all requirements applicable to the installation at the time of issuance."* EPA concludes therefore, that Missouri's regulations do adequately ensure that any reasonably anticipated operating scenarios approved will meet all applicable requirements.

The commenter expresses the belief under the heading "***Temporary sources***" that Missouri's regulations refer to temporary sources as *"portable installations,"* and that these types of sources are not required to have permits which include *"Conditions that assure compliance with all other provisions"* as required by 40 CFR §70.6(e)(3). Missouri defines *"temporary installation"* at 10 CSR 10-6.020(2)(T)1 as *"An installation which operates or emits pollutants less than two (2) years"* and defines *"Portable equipment"* at 10 CSR 10-6.020(2)(P)(16) as *"any equipment that is designed and maintained to be moveable, primarily for use in noncontinuous operations . . . includes rock crushers, asphaltic concrete plants, and concrete batching plants."* The federal regulation at 40 CFR §70.6(e) allows the permitting authority to *"issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations"* provided the permits include *"Conditions that will assure compliance with all applicable requirements at all authorized locations."* The equivalent state regulation at 10 CSR 10-6.065(6)(C)5.B. requires that *"the permittee must comply with all applicable requirements at each authorized location."* Since the federal and state requirements are equivalent, no deficiency exists in regard to the issues raised in this comment.

Under the heading "***Permit Shields***" the concern is expressed that because Missouri's regulations require that permit shields be included in all permits that the State is depriving itself of an opportunity to provide stricter enforcement of clean air standards. EPA does not agree that requiring the inclusion of permit shields in all permits constitutes a deficiency, or restricts enforcement in any way. Where appropriately designed, permit shields can actually improve compliance by making the applicable requirements more clear. Section 504(f) of the Act defines the permit shield provision of title V, which enables States to provide sources with greater certainty as to their legal obligations under the Act. EPA stated in the July 21, 1992 Federal Register, (Vol. 57, No. 140, page 32255) that the *"EPA encourages States to employ the permit shield routinely to help stabilize the permit process and give greater certainty to the regulated community."*

There are exceptions to the permit protection provided by the shield, such as the applicable requirements of the acid rain program and liability for any violation of an applicable requirement which occurred prior to, or was existing at the time of permit issuance. Standard permit language used by Missouri accurately describes the scope of the permit shield and lists all exceptions.

The first comment under the heading "***Operational flexibility***" expresses the opinion that Missouri's regulations are less stringent than the federal regulations regarding advance notice of certain changes allowed by Section 502(6)(10) of the Act because 40 CFR §70.4(b)(12) requires notice at least seven days in advance *"unless the permitting authority provides in its regulations a different time frame for emergencies"* whereas 10 CSR 10-6.065(6)(C)8.A. states that *"If less than seven (7) days' notice is provided because of a need to respond more quickly to these unanticipated conditions..."*. In the preceding paragraph, 10 CSR 10-6.065(6)(C)7., Missouri defines an *"emergency"* or *"upset"* as *"any condition arising from sudden and not reasonably foreseeable events beyond the control of the permittee, including acts of God, which require immediate corrective action to restore normal operation and that causes the installation to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency or upset."* Missouri's regulations further state in 10 CSR 10-6.065(6)(C)7.B. that seven day advance notice to the permitting authority and the administrator is required *"except as allowed for emergency or upset condition."* EPA finds, therefore, that Missouri's regulations are not less stringent in this regard and that no deficiency exists.

The second comment under this heading calls into question the equivalency of Missouri's regulations regarding notification of emissions trading changes. 40 CFR §70.4(b)(12)(iii) requires permitting authorities, upon request of the applicant, *"to issue permits that contain terms and conditions to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements."* The federal regulations also require that the permit applicant include in the application *"proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable"* and §70.4(b)(12)(A) specifies that the required advance

written notification "shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit." Finally, the federal regulations allow the permitting authority the option of extending the permit shield to *"terms and conditions that allow such increases and decreases in emissions."*

Missouri's regulations, though worded slightly differently, specify equivalent requirements. 10 CSR 10-6.065(6)(C) allows *"changes associated with the trading of emissions increases and decreases within a permitted installation"* without a permit revision *"if this trading is solely for the purpose of complying with the federally-enforceable emissions cap that was established in the permit at the applicant's request, independent of otherwise applicable requirements."* The state rules require that the permittee provide advance written notice including the following information: *"when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading, and any other information as may be required by the applicable requirement authorizing the emissions trade."* In addition, the state rule at 10 CSR 10-6.065(6)(B)3.H. requires that *"additional information, as determined necessary by the permitting authority, to define reasonably anticipated operating scenarios identified by the applicant for emissions trading or to define permit terms and conditions implementing operational flexibility."* EPA is satisfied that the language in the Missouri regulations is sufficiently broad to allow collection of all necessary information from the permittee. Therefore, EPA finds that Missouri's regulations are not deficient in this regard. Regarding Missouri's application of the permit shield provisions, please refer to the discussion above under ***Permit Shield***s.

The comments under the heading "***Off-permit changes***" expresses the concern that Missouri's regulations governing off-permit changes are not equivalent to the federal requirements. The federal regulations at 40 CFR §70.4(b)(14) allows permitting authorities the option of allowing changes to permits without a permit revision if the changes are not addressed in or prohibited by the permit, and the changes meet all applicable requirements and do not violate any existing permit term or condition. The state rules providing for off-permit changes are found at 10 CSR 10-6.065(6)(C)9. and allow for a part 70 installation to *"make any change in its permitted installation's operations, activities or emissions that is not addressed, constrained by or prohibited by the permit without obtaining a permit revision."* 10 CSR 10-6.065(6)(C)9.A. further states that the *"change must meet all applicable requirements of the Act and may not violate any existing permit term or condition"* which is consistent with the federal requirements. Therefore, EPA concludes that Missouri's regulations on this subject are not deficient with regard to this issue.

The comments under the heading "***Requirement for a permit, sec 70.7(b) is retitled "Application shield***" expressed the concern that a source could be allowed to operate without a permit. The federal regulations do, in general, require a permit in order to operate. 40 CFR §70.5(a)(2) includes the following provision: *"The source's ability to operate without a permit, as set forth in §70.7(b) of this part, shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any*

requested additional information by the deadline specified by the permitting authority." 40 CFR §70.7(b) requires that approved programs *"shall provide that, if a part 70 source submits a timely and complete application for permit issuance (including renewal), the source's failure to have a part 70 permit is not a violation of this part until the permitting authority takes final action on the permit application, except as noted."* This section goes on to state that *"this protection shall cease to apply, if subsequent to the completeness determination"* the applicant *"fails to submit by the deadline specified in writing by the permitting authority any additional information identified as being needed to process the application."*

Similarly, Missouri's regulations include a prohibition against operating without a permit, requiring at 10 CSR 10-6.065(2)(A) that *"no person shall operate a part 70 installation"..."except in compliance with an operating permit issued by the permitting authority."* The state rules at 10 CSR 10-6.065(6)(E)2., also include the same exception found in the federal regulations, allowing sources that have submitted complete and timely applications to operate while their permit is being processed by the permitting authority. 10 CSR 10-6.065(6)(E)2.B. explains that the applicant would lose this protection and be in violation of operating without a permit if the permitting authority determined that additional information was needed and the source failed to provide it. 10 CSR 10-6.065(6)(E)2.C. clarifies that construction permits are unaffected by these shield provisions; thus, a new facility would be required to obtain a construction permit before beginning construction. EPA concludes, therefore, that the state regulations are consistent with the federal requirements and no deficiency exists with regard to this issue.

Comments included under the heading "***Minor permit modifications***" expressed the view that the group processing procedures for minor permit modifications, as well as the source's ability to operate under the proposed minor permit modifications prior to approval, are less stringent in the state's rules. With regard to the issue of a source's ability to operate under the proposed new terms during processing of a minor permit modification, the federal regulations include the following provisions at 40 CFR §70.7(e)(2)(v): *"The State program may allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions specified in paragraphs (e)(2)(v)(A) through (C) of this section, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it."*

Similarly, Missouri's rules, at 10 CSR 10-6.065(6)(E)5.B.(II)(f), specify that *"An applicant for a minor permit modification may make the change proposed immediately after filing the application. After making the change, and until the permitting authority takes any of the actions specified in this section (6), the applicant must comply with both the applicable requirements governing the change and the proposed modified permit terms and conditions.*

During this time period, the installation need not comply with the existing permit terms and conditions the applicant is seeking to modify. However, if the applicant fails to comply with the proposed modified permit terms and conditions during this time period, the existing permit, terms and conditions which the applicant is seeking to modify may be enforced against the installation." This is equivalent to the federal requirements; therefore, no deficiency exists.

The commenter expresses the belief that Missouri's rules at 10 CSR 10-6.065(6)(E)5.C.(II) pertaining to group processing of minor permit modifications are deficient because they do not include a specific reference requiring compliance with §70.5(c). There is no requirement that state regulations include specific federal citations in order to be considered equivalent, as long as they specify equivalent requirements. In this case, the federal regulations state that group processing of minor permit modifications must *"meet the requirements of 70.5(c)."* Section 70.5(c) is titled *"Standard application form and required information"* and applies to a much broader range of application activities, including initial permit applications, than merely minor permit modifications. The amount of information required in an initial permit application is clearly much greater than the amount of information necessary in a minor permit modification. However, some aspects are common between the two, such as the submission of the application under the certification of a responsible official. The portion of Missouri's regulations that are analogous to 70.5(c) are contained in section (6) of 10 CSR 10-6.065. Missouri's group processing of minor permit modifications require consistency with 10 CSR 10-6.065(6), rather than the federal analogue, and are equivalent. Therefore, no deficiency is found to exist with regard to this issue.

The comment under the heading "***Significant permit modifications***" raises the concern that the State's criteria for determining what constitutes a significant permit modification are less stringent than the federal requirements. In order to determine what changes qualify for the minor permit modification procedures versus the significant permit modifications procedures, both must be viewed together. 40 CFR §70.7(e)(2) allows minor permit modification procedures to be used if the changes *"do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit."* 40 CFR §70.7(e)(4)(i) requires that significant modification procedures be used *"at a minimum"* for *" every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions."* Missouri's rules, at 10 CSR 10-6.065(6)(E)(5.)D.(I), require that *"any permit revision which is not a minor modification or administrative permit amendment is a significant permit modification,"* and, further, that *"includes, but is not limited to*, *significant changes in monitoring, reporting or recordkeeping permit terms."* By including the phrase *"includes, but is not limited to"* Missouri indicates that this is not an exhaustive list, but a list of examples of the types of changes that must be made using significant, rather than minor, permit modification procedures. Furthermore, EPA regulations identify as minor permit modifications (*i.e.,* changes which are not *"significant"*) those modifications which do not involve significant reporting or record keeping requirements (40 CFR §70.7(e)(2)). EPA believes that Missouri's rules are consistent with Part 70 and that Missouri is correctly applying the modification rules, and we are not aware of any actual instances in which the State incorrectly classified a permit modification involving a relaxation of record keeping as a minor permit modification. Therefore,

the state rules and the federal regulations are equivalent and no deficiency exists.

The comment under the heading "***Case-by-case determinations***" expresses the concern that applicants could be allowed too much influence in the development of case-by-case determinations. The regulation cited is 10 CSR 10-6.065(6)(E)9, which provides that *"If applicable requirements require the permitting authority to make a case-by-case determination of an emission limitation, technology requirement, work practice standard or other requirement for an installation, and to include terms and conditions implementing that determination in the installation's part 70 operating permit, the installation shall include in its permit application a proposed determination, together with the data and other information upon which the determination is to be based, and proposed terms and conditions to implement the determination. Upon receipt of a request from the applicant the permitting authority shall meet with the applicant before the permit application is submitted to discuss the determination and the information required to make it. In the event the permitting authority determines that the applicant's proposed determination and implementing terms and conditions should be revised in the draft permit or the final permit, the permitting authority shall in all cases inform the applicant of the changes to be made, and allow the applicant to comment on those changes before issuing the draft permit or final permit."* This does not constitute a deficiency as the permitting authority's approval rights are clearly reserved, as well as the opportunity for public comment and comment by EPA and any affected States.

Comments under the heading "***Inadequate monitoring, recordkeeping and reporting***" state that Missouri permits frequently do not include sufficient monitoring, recordkeeping or reporting requirements. As examples, the commenter references the asbestos abatement requirements in the permits issued to Union Electric Meramec Plant, Willert Home Products, and Noranda Aluminum #4.

The commenter alleges that conditions pertaining to asbestos abatement activities contain inadequate and unclear monitoring requirements. In particular, the permits typically note that monitoring, record keeping, and reporting shall be *"appropriate"* to demonstrate compliance with the applicable standards. The commenter takes exception to the use of the term *"appropriate"* and contends that the vagueness of the permit conditions gives the applicant complete discretion to determine what monitoring, record keeping, and reporting is needed for a compliance demonstration. The commenter believes that the permit should clearly state monitoring and reporting requirements that are practically enforceable. EPA contends that all necessary monitoring, record keeping, and reporting is detailed in the applicable regulations and that placement of each of these requirements in the permit would be unnecessarily cumbersome.

Such permit conditions describe plant-wide asbestos-related requirements that apply to plant equipment when and if the facility undertakes an applicable asbestos abatement project. These types of conditions typically require the source to comply with the *"Asbestos Abatement Projects - Certification, Accreditation, and Business Exemption Requirements"* found at 10 CSR 10-6.250, and with the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for asbestos, 40 CFR Part 61 Subpart M, and 10 CSR 10-6.080*, Emissions Standards for*

Hazardous Air Pollutants, when undertaking any asbestos renovation and demolition activity. (The asbestos-related requirements in 10 CSR 10-6.250 are not derived from Clean Air Act authority and therefore may not be placed in the title V permit as federally-enforceable Clean Air Act requirements. Accordingly, these requirements should be clearly identified in permits as "State only enforceable.")

EPA agrees that title V permit conditions must be written with enough specificity to assure that the permit applicant, the public, and regulatory authorities know what requirements apply. However, EPA does not agree with the commenter that the use of the word *"appropriate"* in the monitoring, record keeping, and reporting section of asbestos-abatement activity permit conditions leaves it up to the discretion of the applicant to determine what is necessary to demonstrate compliance with the applicable requirements. It is clear from the terms typically included in these permits that when a demolition or renovation project is undertaken, the permittee must follow the procedures and requirements outlined in 40 CFR Part 61 Subpart M for any activities that would trigger this regulation.

EPA does note that the asbestos NESHAP does not contain a quantitative emission standard or a monitoring requirement to measure such an emission standard as that term is commonly understood. Asbestos emissions are essentially invisible and unpredictable during a demolition or renovation activity. Actions such as the breaking and pulling of building materials are sporadic and release fibers in a way that is impossible to predict and therefore difficult to monitor. Pursuant to section 112(h) of the CAA, when it is not feasible to prescribe or enforce an emission standard EPA may promulgate a work practice or operational standard in lieu of an emission standard that is consistent with the Act's requirements. EPA has determined that there is no feasible way to monitor asbestos emissions resulting from a demolition or renovation project and, therefore, EPA employs a work practice standard as prescribed by the Act and also uses visible emissions as a surrogate for asbestos. In other words, if asbestos containing materials are being removed from a facility and visible emissions occur during that activity, the emissions resulting from the demolition or renovation of asbestos containing materials are subject to the asbestos NESHAP. Thus, the specific regulatory requirements necessary to assure compliance with the Asbestos NESHAP can be found by consulting the cross referenced federal regulations.

A title V permit may refer to, cross reference, or incorporate by reference, a rule, an existing permit, or other applicable requirements to fill in the details on monitoring, record keeping, or reporting; but only to the extent that the information is publicly available, detailed enough that the manner in which the citation applies to a facility is clear, and is not reasonably subject to misinterpretation. Material incorporated into a permit by reference must be specific enough to define how the applicable requirement applies, and the referenced material should be unambiguous in how it applies to the permitted facility. In other words, some citation in a permit may be appropriate if the level of detail provided is sufficient to assure compliance with all applicable requirements. This streamlining approach is further discussed on pages 37 - 41 in EPA's "*White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program*," (March 5, 1996).

The referenced permit conditions make clear that the applicant, and others interested in the permit, should *"consult the appropriate sections in the Code of Federal Regulations (CFR) and Code of State Regulations (CSR) for the full text of the applicable requirements."* These documents are widely distributed and publicly available, both in hardcopy format and electronically on the Internet. Also, the cross referenced rules provide detailed instructions for complying with the asbestos NESHAP requirements. Furthermore, while the permit language might be improved by eliminating the word *"appropriate,"* EPA does not believe that the wording creates sufficient confusion to compromise the enforceability of the permit.

The commenter also raised the concern that monitoring, record keeping and reporting requirements were insufficient with regard to non-asbestos permit conditions, citing the Conoco Riverside Products Terminal permit as an example. Not all permit conditions requiring compliance with an emissions limit require monitoring. In some cases, record keeping can be used as a legitimate substitute. EPA has advised Missouri that more detailed explanations in the Statement of Basis may be useful in explaining why record keeping has been determined to be sufficient. This record keeping may pertain to throughput, hours of operations, fuel type and content, and other parameters. Despite the need for a more detailed explanation of the rationale, EPA does not find that Missouri permits are routinely deficient in monitoring, record keeping and reporting requirements.

During EPA's review of various Missouri permits, no other examples of potentially inadequate monitoring, record keeping and reporting were found to be regularly occurring. Given these facts, EPA does not find that the monitoring, record keeping and reporting requirements in title V permits issued by Missouri are deficient.

The comment under the heading "***Acid rain***" expresses the concern that title V permit requirements are not adequately integrated into Missouri's operating permits, and recommends that the title V permit should include the title IV acid rain permit. Missouri is incorporating acid rain permits by reference into the title V permits where appropriate; however, on occasion, a copy of the actual acid rain permit is not included in the title V permit. Although EPA does not find that a deficiency exists in this case, EPA does agree that including a copy of the acid rain permit in the title V permit is an effective way to ensure that all acid rain requirements have been adequately and appropriately incorporated into the title V permit, and made a comment to this effect in an April 20, 2001 letter to Missouri regarding the proposed permit for Independence Power and Light - Blue Valley Station.

The comments under the heading "***Citation of origin and authority***" express concern that the permit conditions included in Missouri permits frequently do not include required citations of origin and authority. EPA does not find that this occurs with a frequency sufficient to constitute a deficiency. However, there have been specific instances in the past in which proposed permits have included an incorrect or superseded citation. In such cases, EPA makes comments to identify these issues to the State during the 45-day review of the proposed permit. For instance, some permits proposed in early 2001 cited the rescinded state regulation 10 CSR 10-3.050, which although it remained in the SIP at that time and was, therefore, federally enforceable, the

state regulation, 10 CSR 10-6.400, which was not yet in the SIP and federally enforceable, was omitted from the permit. EPA has made comments on such permits recommending that Missouri revise and clarify the permit in this regard, clearly indicating any sunset provisions and specifying which, if any, conditions are "federally enforceable only" and which are "State enforceable only." Missouri has revised such permits where necessary.

Comments under the heading "***General requirements***" raise several concerns, among them Missouri's practice of not allowing public comment on the standard permit requirements. As the comment correctly points out, the applicable regulations require that the entire permit be made available for public comment. Missouri's regulations do not limit the scope of comments during the public notice period so no program deficiency exists. To resolve this issue, Missouri has agreed to immediately revise their cover letter announcing public comment opportunities to delete the sentence "Standard permit wording (*i.e.*, General Requirements) is not open for comment, since these provisions are required by law and regulation."

Additional comments under this heading raise a variety of concerns which were expressed in previous comments. These include failure to include adequate monitoring and recordkeeping requirements in permits, inadequate reporting requirements for deviations from permit conditions, failure to include a compliance plan and schedule, inadequate compliance certification requirements, inadequate reopening for cause criteria, and requirement to pay annual emissions fee. All of these issues are addressed in the preceding comments above.

The comment under the heading "***Statement of basis***" expresses the view that the statement of basis included in Missouri permits typically does not adequately explain all of the permit conditions. EPA does not find that this occurs to a degree that constitutes a deficiency. However, there are opportunities on individual permits to enhance the information provided, and EPA makes recommendations to Missouri in this regard.

STATE OF MISSOURI

Bob Holden, Governor • Stephen M. Mahfood, Director

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY

P.O. Box 176 Jefferson City, MO 65102-0176

OCT 1 2 2001

William A. Spratlin, Director
Air, RCRA, and Toxics Division
EPA Region 7
901 North 5th Street
Kansas City, KS 66101

RE: Title V Program Changes

Dear Mr. Spratlin:

The purpose of this letter is to confirm our commitment to implement the following steps as part of our approved Title V program. These actions will ensure that there are no deficiencies in Missouri's operating permit program, and are being taken in response to issues raised by the Sierra Club of the Ozarks in their March 9, 2001, letter to the United States Environmental Protection Agency (EPA) describing potential areas of deficiency.

The following revisions will be made as soon as possible to the state regulations:

- Language will be proposed to amend Missouri regulation at 10 CSR 10-6.065(1)(D)3., consistent with 40 CFR §§ 70.2, *Major source*, (3)(i) through (iv), and 70.3(a)(1), defining major stationary source applicability in ozone transport regions, carbon monoxide non-attainment areas, and particulate matter non-attainment areas. Although no such non-attainment areas have currently been designated within the state, this will ensure that the appropriate regulations are in place in the event that such an area is designated in the future.
- Language will be proposed to amend regulations governing permit modifications at 10 CSR 10-6.065(6)(E)5 clarifying that the permit revision procedures specified in 40 CFR Part 72 apply to any changes to the acid rain portions of Title V operating permits. This is in accordance with 40 CFR § 70.7(e),

Permit modification, which states in part: "A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act."

- Language will be proposed to amend regulations governing minor permit modification at 10 CSR 10-6.065(6)(E)5.B., in accordance with 40 CFR § 70.7(e)(2)(ii)(C), requiring that each minor permit modification application be submitted with 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."

As of the date of this letter, the following standard language will be included in all operating permits issued by Missouri:

- In accordance with 40 CFR § 70.6(c)(5)(iii)(C), which specifies that compliance certifications "identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred," standardized language incorporated into all permits will be added requiring that "all deviations and Part 64 exceedances and excursions must be included in the compliance certifications submitted annually."
- In order to satisfy the requirement in 40 CFR § 70.7(f)(1), which requires that each permit include the provisions under which a permit may be reopened for cause, the following standard language will be included in all future permits under General Requirements: "In accordance with 10 CSR 10-6.065(6)(E)6.A., this permit may be reopened for cause if:
  - The Missouri Department of Natural Resources (MDNR) receives notice from the EPA that a petition for disapproval of a permit pursuant to 40 CFR § 70.8(d) has been granted, provided that the reopening may be stayed pending judicial review of that determination.
  - MDNR or EPA determines that the permit contains a material mistake or that inaccurate statements were made which resulted in establishing the emissions limitation standards or other terms of the permit.

- Additional applicable requirements under the Act become applicable to the installation; however, reopening on this ground is not required if the permit has a remaining term of less than three years, the effective date of the requirement is later than the date on which the permit is due to expire, or the additional applicable requirements are implemented in a general permit that is applicable to the installation and the installation receives authorization for coverage under that general permit.
- The installation is an affected source under the acid rain program and additional requirements (including excess emissions requirements), become applicable to that source, provided that, upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit, or
- MDNR or EPA determines that the permit must be reopened and revised to assure compliance with applicable requirements.

- For additional clarity, the severability clause language in the standard general permit requirements which reads, "In the event of a successful challenge to any part of this permit, all uncontested permit conditions shall continue to be in force" will be modified to include the following", "All terms and condition of this permit remain in effect pending any administrative or judicial challenge to any portion of the permit. If any provision of this permit is invalidated, the permittee shall comply with all other provisions of the permit."
- The following standard language requiring payment of annual fees will be incorporated into all future permits:
  - 10 CSR 10-6.110, Submission of Emission Data, Emission Fees and Process Information:
  - The permittee shall complete and submit an Emission Inventory Questionnaire (EIQ) in accordance with the requirements outlined in this rule.
  - The permittee shall pay an annual emission fee per ton of regulated air pollutant emitted according to the schedule in the rule. This fee is an emission fee assessed under authority of RSMo. 643.079 to satisfy the requirements of the Federal Clean Air Act, Title V.

➢ The fees shall be due April 1, each year for emissions produced during the previous calendar year. The fees shall be payable to the Department of Natural Resources and shall be accompanied by the Emissions Inventory Questionnaire (EIQ) form or equivalent approved by the director.

The following procedural changes are being implemented:

- The standard letters used to announce the public comment period for a draft permit have been revised so that it is clear that the entire permit is open for comment. The statement that "Standard permit wording (i.e., General Requirements) is not open for comment, since these provisions are required by law and regulation" will be removed.
- The permit modification form instructions will be enhanced to include a statement explaining that any changes related to the acid rain provisions in the permit are subject to the part 72 regulations governing permit revisions. In addition, a certification statement and signature blank will be added for sources to certify that applications for minor permit modifications meet the criteria for minor permit modifications. This certification statement will include the following language: "I certify that this request for a permit modification meets the criteria described in 10 CSR 10-6.065(6)(E) 5.B.(I) for minor permit modification, and request that the minor permit modification procedures be followed."

Finally, we are providing an update on our progress regarding completion of the Part 70 Installation Operating Permits. I have made it a priority to complete the Title V projects through the Public Notice step by year's end. We are also utilizing contract help to the greatest extent possible. However, there may still be a few Part 70 permits because of: federal court rulings or enforcement activity, will be delayed beyond January 1, 2002. At this point, we estimate the following will be delayed; Lake City Ammunition Plant, Associated Electric Cooperative Inc., Nodaway Power Plant, BASF Agri-Chemicals Hannibal Plant, TEVA Pharmaceuticals USA, St. Joseph Light & Power Company Lake Road,

Continental Cement Company Ilasco, Tnemec Company Inc., Holnam Inc. - Hannibal, Steelweld Equipment Company Inc., and General Electric. We will complete these as quickly as resolution allows.

Thank you for your patience if you have any questions please don't hesitate to call me at (573) 751-7840.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Roger D. Randolph
Director

RDR:rrt