Phase II
Acid Rain Permit

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Source: **D.H. Mitchell Generating Station**
Address: **Clark Road and Lake Michigan, Gary, IN 46402**
Operated by: **NIPSCO**
ORIS Code: **996**
Effective: **January 1, 2000 through December 31, 2004**

the above corporation is hereby authorized to operate subject to the conditions contained herein, these facilities:

Units 4, 5, 6, and 11.

Operation Permit No.: AR 089-5299-00117	
Issued by: Felicia R. George, Assistant Commissioner Office of Air Management	Issuance Date: Expiration Date:

Table of Contents

1) Statement of Basis.

2) Standard Requirements.

1) Statement of Basis

Statutory and Regulatory Authorities: In accordance with IC 13-17-3-4, IC 13-17-3-11, IC 13-17-8-1, and IC 13-17-8-2 as well as Titles IV and V of the Clean Air Act, the Indiana Department of Environmental Management (IDEM), Office of Air Management (OAM) issues this permit pursuant to 326 IAC 2 and 326 IAC 21 (incorporates by reference 40 CFR 72 through 78).

2) Standard Requirements

Permit Requirements [326 IAC 21]

(a) The designated representative of each affected source and each affected unit at the source shall:

(1) Submit a complete Acid Rain Permit application, by submitting a sulfur dioxide application and compliance plan in accordance with the deadlines in 40 CFR 72.30; and

(2) Submit in a timely manner any supplemental information that IDEM, OAM determines is necessary in order to review an Acid Rain Permit application or an Acid Rain portion of an operation permit application and issue or deny an Acid Rain Permit;

Information required by (1) and (2) above shall be submitted to:

Indiana Department of Environmental Management
Permits Branch, Office of Air Management
100 North Senate Avenue, P.O. Box 6015
Indianapolis, Indiana 46206-6015

and

Gary Air and Land Pollution Control
504 Broadway, Suite 1012
Gary, Indiana 46402

(b) The owners and operators of each affected source and each affected unit at the source shall:

(1) Operate the unit in compliance with a complete Acid Rain Permit application or a superseding Acid Rain Permit issued by the IDEM, OAM.

Monitoring Requirements [326 IAC 21]

(a) The owners and operators and, to the extent applicable, the designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in 40 CFR 74, 75, and 76.

(b) The emissions measurements recorded and reported in accordance with 40 CFR 75 and 76 shall be used to determine compliance by the unit with the Acid Rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the Acid Rain Program.

(c) The requirements of 40 CFR 74 and 75 shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Clean Air Act and other provisions of the operating permit for the source.

Sulfur Dioxide Requirements [326 IAC 21]

(a) The owners and operators of each source and each affected unit at the source shall:

(1) Hold allowances, as of the allowance transfer deadline (as defined in 40 CFR 73.35), in the unit's compliance subaccount, after deductions under 40 CFR 73.34(c), not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and

(2) Comply with the applicable Acid Rain emissions limitations for sulfur dioxide.

(b) Each ton of sulfur dioxide emitted in excess of the Acid Rain emissions limitations for sulfur dioxide shall constitute a separate violation of the Clean Air Act.

(c) An affected unit shall be subject to the requirements under paragraph (a) of the sulfur dioxide requirements as follows:

(1) Starting January 1, 2000, an affected unit under 40 CFR 72.6(a)(2);or

(2) Starting on the latter of January 1, 2000 or the deadline for monitor certification under 40 CFR 75, an affected unit under 40 CFR 72.6(a)(3).

(d) Allowances shall be held in, deducted from, or transferred among Allowance Tracking System accounts in accordance with the Acid Rain Program.

(e) An allowance shall not be deducted in order to comply with the requirements under paragraph (a)(1) of the sulfur dioxide requirements prior to the calendar year for which the allowance was allocated.

(f) An allowance allocated by the U.S. EPA under the Acid Rain Program is a limited authorization to emit sulfur dioxide in accordance with the Acid Rain Program. No provision of the Acid Rain Program, the Acid Rain Permit application, the Acid Rain Permit, the Acid Rain portion of an operating permit, or the written exemption under 40 CFR 72.7 and 72.8 and 326 IAC 21, and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.

(g) An allowance allocated by U.S. EPA under the Acid Rain Program does not constitute a property right.

(h) No permit revision may be required for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program, provided that the increases do not require a permit revision under any other applicable requirement. [326 IAC 2-7-5(4)(A)].

(i) No limit shall be placed on the number of allowances held by an affected source. An affected source may not, however, use allowances as a defense to noncompliance with any applicable requirement other than the requirements of the Acid Rain Program. [326 IAC 2-7-5(4)(B)]

(j) Sulfur dioxide allowances shall be allocated to each unit at the source as follows:

SO_2 Allowance Allocations for Unit 4
(1) 2000 - 3,103*
(2) 2001 - 3,103*
(3) 2002 - 3,103*
(4) 2003 - 3,103*
(5) 2004 - 3,103*

SO_2 Allowances for Unit 5
(1) 2000 - 3,002*
(2) 2001 - 3,002*
(3) 2002 - 3,002*
(4) 2003 - 3,002*
(5) 2004 - 3,002*

SO_2 Allowances for Unit 6
(1) 2000 - 2,955*
(2) 2001 - 2,955*
(3) 2002 - 2,955*
(4) 2003 - 2,955*
(5) 2004 - 2,955*

SO_2 Allowances for Unit 11
(1) 2000 - 2,648*
(2) 2001 - 2,648*
(3) 2002 - 2,648*
(4) 2003 - 2,648*
(5) 2004 - 2,648*

*The number of allowances allocated to Phase II affected units by U.S. EPA may change in a revision to 40 CFR 73 Tables 2, 3, and 4 and 326 IAC 21. In addition, the number of allowances actually held by an affected source in a unit account may differ from the number allocated by U.S. EPA. Neither of the aforementioned conditions necessitate a revision to the unit SO_2 allowance allocations identified in this permit (See 40 CFR 72.84).

Nitrogen Oxides Requirements [326 IAC 21]

(a) NOx Compliance Plans

(1) On August 11, 1997, the USEPA approved a Phase I Early Election NOx Compliance Plan for unit 4 for the years 1997-2007 under which this unit's annual average NOx emission rate for each year, determined using the methods and procedures specified in 40 CFR Part 75, shall not exceed the applicable emission limitation under 40 CFR 76.5(a)(1) of 0.45 lb/mmBtu. If this unit is in compliance with the applicable emission limitation for each year of the plan, then the unit shall not be subject to the applicable emission limitation under 40 CFR 76.7(a)(1) of 0.40 lb/mmBtu until January 1, 1998.

Northern Indiana Public Service Company must annually demonstrate that this unit meet the NOx emission limit of 0.45 lb/mmBtu by showing that emissions at the common stack (through which all emissions from units 4 and 5 are vented) meet such limit, based upon the data from certified continuous emission monitoring systems (CEMS) at common stack CS45. CEMS certification must be performed in accordance with the requirements and specifications delineated at 40 CFR Part 75.

This unit cannot participate in a NOx averaging plan during Phase I of the Acid Rain program. Northern Indiana Public Service Company can include unit 4 in a NOx averaging plan during Phase II only if the applicable emission limitation under 40 CFR 76.7(a) is used for this unit in determining compliance with such a plan.

(2) On August 11, 1997, the USEPA approved a Phase I Early Election NOx Compliance Plan for unit 5 for the years 1997-2007 under which this unit's annual average NOx emission rate for each year, determined using the methods and procedures specified in 40 CFR Part 75, shall not exceed the applicable emission limitation under 40 CFR 76.5(a)(1) of 0.45 lb/mmBtu. If this unit is in compliance with the applicable emission limitation for each year of the plan, then the unit shall not be subject to the applicable emission limitation under 40 CFR 76.7(a)(1) of 0.40 lb/mmBtu until January 1, 2008.

Northern Indiana Public Service Company must annually demonstrate that this unit meet the NOx emission limit of 0.45 lb/mmBtu by showing that emissions at the common stack (through which all emissions from units 4 and 5 are vented) meet such limit, based upon the data from certified continuous emission monitoring systems (CEMS) at common stack CS45. CEMS certification must be performed in accordance with the requirements and specifications delineated at 40 CFR Part 75.

This unit cannot participate in a NOx averaging plan during Phase I of the Acid Rain program. Northern Indiana Public Service Company can include unit 5 in a NOx averaging plan during Phase II only if the applicable emission limitation under 40 CFR 76.7(a) is used for this unit in determining compliance with such a plan.

(3) On August 11, 1997, the USEPA approved a Phase I Early Election NOx Compliance Plan for unit 6 for the years 1997-2007 under which this unit's annual average NOx emission rate for each year, determined using the methods and procedures specified in 40 CFR Part 75, shall not exceed the applicable emission limitation under 40 CFR 76.5(a)(1) of 0.45 lb/mmBtu. If this unit is in compliance with the applicable emission limitation for each year of the plan, then the unit shall not be subject to the applicable emission limitation under 40 CFR 76.7(a)(1) of 0.40 lb/mmBtu until January 1, 2008.

Northern Indiana Public Service Company must annually demonstrate that this unit meet the NOx emission limit of 0.45 lb/mmBtu by showing that emissions at the common stack (through which all emissions from units 6 and 11 are vented) meet such limit, based upon the data from certified continuous emission monitoring systems (CEMS) at

common stack CS611. CEMS certification must be performed in accordance with the requirements and specifications delineated at 40 CFR Part 75.

This unit cannot participate in a NOx averaging plan during Phase I of the Acid Rain program. Northern Indiana Public Service Company can include unit 6 in a NOx averaging plan during Phase II only if the applicable emission limitation under 40 CFR 76.7(a) is used for this unit in determining compliance with such a plan.

(4) On August 11, 1997, the USEPA approved a Phase I Early Election NOx Compliance Plan for unit 11 for the years 1997-2007 under which this unit's annual average NOx emission rate for each year, determined using the methods and procedures specified in 40 CFR Part 75, shall not exceed the applicable emission limitation under 40 CFR 76.5(a)(2) of 0.50 lb/mmBtu. If this unit is in compliance with the applicable emission limitation for each year of the plan, then the unit shall not be subject to the applicable emission limitation under 40 CFR 76.7(a)(2) of 0.46 lb/mmBtu until January 1, 2008.

Northern Indiana Public Service Company must annually demonstrate that this unit meet the NOx emission limit of 0.45 lb/mmBtu by showing that emissions at the common stack (through which all emissions from units 6 and 11 are vented) meet such limit, based upon the data from certified continuous emission monitoring systems (CEMS) at common stack CS611. CEMS certification must be performed in accordance with the requirements and specifications delineated at 40 CFR Part 75.

This unit cannot participate in a NOx averaging plan during Phase I of the Acid Rain program. Northern Indiana Public Service Company can include unit 11 in a NOx averaging plan during Phase II only if the applicable emission limitation under 40 CFR 76.7(a) is used for this unit in determining compliance with such a plan.

(b) Upon application by a source and approval by the Commissioner, an Alternative Emissions Limit (AELs) may be granted to a unit in accordance with 40 CFR 76.10.

Excess Emissions Requirements [326 IAC 21]

(a) The designated representative of an affected unit that has excess emissions of sulfur dioxide in any calendar year shall submit a proposed offset plan to U.S. EPA and IDEM, OAM as required under 40 CFR 77 and 326 IAC 21.

The designated representative shall submit required information to:

Indiana Department of Environmental Management
Compliance Data Section, Office of Air Management
100 North Senate Avenue, P.O. Box 6015
Indianapolis, Indiana 46206-6015

and

U.S. Environmental Protection Agency
Acid Rain Program (6204J)
Attn.: Annual Reconciliation
401 M Street, SW
Washington, DC 20460

and

Gary Air and Land Pollution Control
504 Broadway, Suite 1012
Gary, Indiana 46402

(b) The owners and operators of an affected unit that has excess emissions in any calendar year shall:

(1) Pay to U.S. EPA without demand the penalty required, and pay to U.S. EPA upon demand the interest on that penalty, as required by 40 CFR 77 and 326 IAC 21; and

(2) Comply with the terms of an approved offset plan, as required by 40 CFR 77 and 326 IAC 21.

Record Keeping and Reporting Requirements [326 IAC 21]

(a) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by U.S. EPA or IDEM, OAM:

(1) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative;

(2) All emissions monitoring information collected shall be retained on site for 3 years in accordance with 40 CFR 75.54;

(3) Copies of all reports, compliance certifications, and other submissions and all records made or required under the Acid Rain Program; and

(4) Copies of all documents used to complete an Acid Rain Permit application and any other submission under the Acid Rain Program or to demonstrate compliance with the requirements of the Acid Rain Program.

(b) The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the Acid Rain Program, including those under 40 CFR 72.90 subpart I, 40 CFR 75, and 326 IAC 21.

Submit required information to the appropriate authority(ies) as specified in 40 CFR 72.90 subpart I and 40 CFR 75.

Submissions [326 IAC 21]

(a) The designated representative shall submit a certificate of representation, and any superseding certificate of representation, to U.S. EPA in accordance with 40 CFR 72 and 326 IAC 21.

The designated representative shall submit required information to:

U.S. Environmental Protection Agency
Acid Rain Program (6204J)
Attn.: Designated Representative
401 M Street, SW
Washington, DC 20460

(b) Each submission under the Acid Rain Program shall be submitted, signed and certified by the designated representative for all sources on behalf of which the submission is made.

(c) In each submission under the Acid Rain Program, the designated representative shall certify, by his or her signature:

(1) The following statement, which shall be included verbatim in the submission: "I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made." and

(2) The following statement which shall be included verbatim in the submission: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(d) The designated representative of a source shall serve notice on each owner and operator of the source and of an affected unit at the source:

(1) By the date of submission, of any Acid Rain Program submissions by the designated representative, and

(2) Within 10 business days of receipt of a determination, of any written determination by U.S. EPA or IDEM, OAM,

(3) Provided that the submission or determination covers the source or the unit.

(e) The designated representative of a source shall provide each owner and operator of an affected unit at the source a copy of any submission or determination under condition (d) of this section, unless the owner or operator expressly waives the right to receive a copy.

Severability [326 IAC 21]

Invalidation of the acid rain portion of an operating permit does not affect the continuing validity of the rest of the operating permit, nor shall invalidation of any other portion of the operating permit affect the continuing validity of the acid rain portion of the permit. [40 CFR 72.72(b), 326 IAC 21, and 326 IAC 2-7-5(5)].

Liability [326 IAC 21]

(a) Any person who knowingly violates any requirement or prohibition of the Acid Rain Program, a complete Acid Rain Permit application, an Acid Rain Permit, an Acid Rain portion of an operation permit, or a written exemption under 40 CFR 72.7 or 72.8, including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement by U.S. EPA pursuant to section 113(c) of the Clean Air Act and shall be subject to enforcement by IDEM pursuant to 326 IAC 21 and IC 13-30-3.

(b) Any person who knowingly makes a false, material statement in any record, submission, or report under the Acid Rain Program shall be subject to criminal enforcement pursuant to section 113(c) of the Clean Air Act and 18 U.S.C. 1001 and shall be subject to criminal enforcement by IDEM pursuant to 326 IAC 21 and IC 13-30-6-2.

(c) No permit revision shall excuse any violation of the requirements of the Acid Rain Program that occurs prior to the date that the revision takes effect.

(d) Each affected source and each affected unit shall meet the requirements of the Acid Rain Program.

(e) Any provision of the Acid Rain Program that applies to an affected source, including a provision applicable to the designated representative of an affected source, shall also apply to the owners and operators of such source and of the affected units at the source.

(f) Any provision of the Acid Rain Program that applies to an affected unit, including a provision applicable to the designated representative of an affected unit, shall also apply to the owners and operators of such unit. Except as provided under 40 CFR 72.44 (Phase II repowering extension plans) and 40 CFR 76.11 (NO_x averaging plans), and except with regard to the requirements applicable to units with a common stack under 40 CFR 75, including 40 CFR 75.16, 75.17, and 75.18, the owners and operators and the designated representative of one affected unit shall not be liable for any violation by any other affected unit of which they are not owners or operators or the designated representative and that is located at a source of which they are not owners or operators or the designated representative.

(g) Each violation of a provision of 40 CFR 72, 73, 74, 75, 76, 77, and 78 by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the Clean Air Act.

Effect on Other Authorities [326 IAC 21]

No provision of the Acid Rain Program, an Acid Rain Permit application, an Acid Rain Permit, an Acid Rain portion of an operation permit, or a written exemption under 40 CFR 72.7 or 72.8 shall be construed as:

(a) Except as expressly provided in Title IV of the Clean Air Act (42 USC 7651 to 7651(o)), exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the Clean Air Act, including the provisions of Title I of the Clean Air Act relating to applicable National Ambient Air Quality Standards or State Implementation Plans;

(b) Limiting the number of allowances a unit can hold; provided, that the number of allowances held by the unit shall not affect the source's obligation to comply with any other provisions of the Clean Air Act;

(c) Requiring a change of any kind in any state law regulating electric utility rates and charges, affecting any state law regarding such state regulation, or limiting such state regulation, including any prudence review requirements under such state law;

(d) Modifying the Federal Power Act (16 USC 791a et seq.) or affecting the authority of the Federal Energy Regulatory Commission under the Federal Power Act; or,

(e) Interfering with or impairing any program for competitive bidding for power supply in a state in which such a program is established.