



REGION 3

PHILADELPHIA, PA 19103

September 25, 2024

Christopher Hoagland
Director
Maryland Department of the Environment
1800 Washington Blvd, Baltimore,
MD 21230-1720
chris.hoagland@maryland.gov

Dear Mr. Hoagland:

Enclosed is the final report for the Maryland Department of the Environment title V program evaluation conducted by my staff this fiscal year. I would like to thank you and your staff for their cooperation and support in conducting the evaluation. I look forward to our continued collaboration and success in the Title V program.

If you have any questions regarding the report, please do not hesitate to contact me at 215-814-2178 or Fernandez.Cristina@epa.gov, or have your staff contact Mary Cate Opila at 215-814-2041 or Opila.MaryCate@epa.gov.

Sincerely,

**CRISTINA
FERNANDEZ**

Digitally signed by
CRISTINA FERNANDEZ
Date: 2024.09.25
12:05:15 -04'00'

Cristina Fernández, Director
Air & Radiation Division

Enclosure

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Clean Air Act Title V Program Evaluation Report
Maryland Department of the Environment – FY2024
Prepared By: EPA Region 3
September 25, 2024

I. Executive Summary

For fiscal year 2024, the United States Environmental Protection Agency Region 3 (EPA) evaluated the Maryland Department of the Environment (MDE) Clean Air Act title V permit program.¹ Areas of review included permit preparation and content, public participation and outreach, permit issuance, and resources and internal management support.

In summary, EPA found that MDE prepares title V permits that contain the applicable title V rules and regulations. MDE's title V program best practices include extensive public engagement, a detailed internal permit review process, prenotification review of draft, staff training, and implementation of electronic resources. During the program review, EPA identified that MDE's title V fee structure and accounting could potentially hamper the permitting program. To address these issues, MDE intends to evaluate their title V fee structure, recordkeeping and tracking practices, and evaluate the use of title V funds according to MD code § 2-107. In collaboration with EPA, MDE will determine the strategies to address the adequacy of their title V fee structure required for their program.

II. Introduction

Title V program evaluations are part of EPA's routine oversight of state programs with the intent of identifying best practices, areas for improvement, and ways in which EPA can improve its oversight role. EPA has completed three prior title V program evaluations for MDE in 2004, 2008, and 2017. In prior evaluations, EPA discovered no significant program deficiencies. This is the first Title V program evaluation of MDE that EPA has conducted which utilized the "Fee Evaluation and Oversight Guidance for 40 CFR Part 70" signed by Scott Mathias on May 25, 2023.

This evaluation was conducted through remote means of written questionnaires, video conference calls, and email correspondence. Areas evaluated include title V permit preparation and content, public participation and outreach, permit issuance, and resources and internal management support. Suna Yi Sariscak is the air permitting manager for MDE and provided the requested information to EPA for this report.

III. Evaluation

To gather information, EPA provided MDE with a questionnaire on January 26, 2024 (Appendix A). As requested, MDE provided written answers to EPA on April 30, 2024 (Appendix B). On June 6, 2024, EPA (including two permitting staff engineers and the Air Permits Branch Chief) and MDE (the Air Quality Permits Program Manager) held a follow up video conference call as a follow-up to the questionnaire. Another follow up call was held on June 18, 2024 between EPA (including three permitting staff

¹ Approved January 15, 2003 at [68 FR 1974](#).

engineers and the Air Permits Branch Chief), and MDE (the Air Quality Permits Program Manager and the Deputy Director of the Air & Radiation Administration). The content of this report is based on the written questionnaire responses, the follow up video calls with MDE, subsequent correspondence with MDE, publicly available information on MDE's website, and EPA's experience working with MDE's title V permit program during routine oversight. File review was not conducted during the evaluation process because EPA routinely reviews draft and proposed title V permits prepared by MDE.

A. Title V Permit Preparation and Content

In Maryland, all title V permit applications are submitted by mail or through email and then entered into the Environmental Tracking System (ETS) database. The assigned permit engineer reviews the application for completeness using the "completeness checklist" template prepared by MDE. The assigned permit engineer must send a letter to the permittee within 60 calendar days of receipt of application to explain that the Department has found the application to either be administratively complete, thereby granting the permittee an application shield, or incomplete. For renewals, the goal is 10 working days. If a letter is not sent within 60 days, the application is considered complete.

The permit engineer drafts the permit conditions and accompanying fact sheet using MDE established templates, customizing as necessary for each individual facility. MDE researches applicable federal regulations, State regulations, and periodic monitoring guidance documents to develop requirements within title V permits. MDE may establish additional periodic monitoring requirements under COMAR 26.11.03.06C when the underlying construction permit or applicable regulations are not sufficient for the permittee to demonstrate compliance. The accompanying Fact Sheet describes the facility's permitting history, applicable requirements, any recent stack tests, and the rationale for the proposed periodic monitoring requirements.

The draft permits and fact sheets undergo multiple levels of internal review from MDE staff. The permit engineer works with the compliance staff, Unit Lead Engineer, and Division Chief as needed to revise the draft permit and fact sheet to incorporate all applicable comments. After MDE's internal review, the permittee is sent a copy of the draft permit conditions, Fact Sheet, and the document describing the title V public participation process and is given three weeks to review and comment on the draft documents.

After the facility reviews the draft documents, the draft permit goes out for public review. Program administrative staff notifies all affected public officials, interested parties, and affected states. An overview of the title V process and an online link to the public docket² containing the draft permit package are included. Program administrative staff arrange for publication of the notice in a local newspaper of general circulation in the area where the permittee is located. If a public hearing is requested during the public opportunity period, the permit engineer and Title V Coordinator make arrangements to hold the hearing, which may be held virtually. After all comments are addressed and issues are resolved, MDE sends the proposed permit to EPA for 45-day review. After EPA's 45-day review, the permit can be issued if EPA does not object. Issued Part 70 permits are posted to MDE's public facing website.³

² <https://mde.maryland.gov/programs/permits/AirManagementPermits/Pages/title5draftpermits.aspx>

³ https://mde.maryland.gov/programs/permits/AirManagementPermits/Pages/title5_issued_permits.aspx

MDE's internal Permits Manual for title V permitting procedures was last updated in 2016.

B. Public Participation and Outreach

MDE's public participation process is handled by the title V coordinator. The title V coordinator works with the permit engineer to develop a notice for the start of the public comment period and the opportunity to request a public hearing. The permittee may decide whether to preemptively schedule a public hearing or to wait to have the public request a hearing. The public notice is then published in a local newspaper and the draft permit package gets uploaded to MDE's Part 70 comment opportunities webpage for public review.⁴ MDE administrative staff send notices to all affected public officials within a one-mile radius of the facility and to any potential interested parties. The title V coordinator maintains an extensive list of interested parties within Maryland and community members within environmental justice areas. The title V coordinator also notifies affected states of MDE's potential to issue a title V permit.

When MDE receives a public hearing request, the title V coordinator works with the permit engineer to finalize the public hearing logistics. Public hearings may be in-person or virtual. A notice with the date, time, and location of the hearing is posted at least 30 days prior to the hearing date in a local newspaper and sent to all affected public officials and interest parties. MDE hires a court reporter and the title V coordinator acts as the hearing officer. As mentioned earlier, the permittee may occasionally request a public hearing at the outset of the public comment period when a permit is expected to be controversial.

Most permits go through a concurrent review process, which means the 30-day public comment period and EPA's 45-day review period occur simultaneously. When MDE receives confirmation that the public notice is published in a newspaper, the title V coordinator emails the draft permit package to EPA for their 45-day review. If substantive comments are received on the draft permit, then the review process switches to sequential review. The permit engineer, the Unit Lead Engineer and/or Division Chief develop a Response to Comments document. The permit engineer consults with the Compliance Program to update the draft permit, fact sheet, and Response to Comments document as necessary. The Response to Comments document is then reviewed internally and approved by the Air Quality Permits Program Manager and the Air and Radiation Administration Deputy Director. The Response to Comment document along with the revised proposed permit package are sent to EPA restarting the 45-day review period. The commenters also receive a copy of the Response to Comments document and proposed permit package. During EPA's 45-day review period, EPA may object to the issuance of the permit. If no substantive comments are received or if EPA does not object to the permit, MDE may issue the final permit. MDE sends the permittee the final permit, posts a copy of the permit online,⁵ and emails a copy to EPA.

⁴ <https://mde.maryland.gov/programs/permits/AirManagementPermits/Pages/title5draftpermits.aspx>

⁵ https://mde.maryland.gov/programs/permits/AirManagementPermits/Pages/title5_issued_permits.aspx

C. Permit Issuance

On October 17, 2005, MDE and EPA entered into an agreement memorialized in a Memorandum of Understanding (MOU) regarding MDE's implementation of its title V operating permit program. In the MOU, MDE agreed to, among other things:

- Issue 100% of new initial permits with 18 months of receipt of a complete application
- Issue 75% of renewals within 18 months of expiration
- Issue 75% of significant permit modifications within 18 months of receipt of a complete application
- Cooperate with EPA during any title V operating permit program evaluation and collaboratively determine how best to implement mutually agreed upon measures that would improve program performance.

A permit is considered to be in the backlog when an active initial permit is older than 18 months or an active permit is extended past 5 years (note: this does not include significant modifications). MDE has a total of 109 active title V sources according to the semiannual title V permit data (TOPS) report for the first half of 2024 (Appendix B). MDE's total backlog is at 32 permits or 29% of the MDE permitting universe as of August 2024. The number of backlogged permits increased significantly beginning in the second half of 2020, due to a combination of COVID-19 restrictions and the introduction of the new ETS database. There is one initial permit action in the backlog, and there are 31 renewal permits action in the backlog.

MDE has encountered numerous obstacles that have impacted their title V program. MDE switched to entirely virtual work during the COVID-19 pandemic in March 2020. There were numerous challenges associated with switching to virtual work, including equipping staff with laptops, remote network (VPN) access, software issues, access to hard-copy files, etc. During the pandemic, MDE was granted temporary permission to issue permits electronically. Now that MDE is no longer fully virtual, MDE must reprint and recertify each electronically issued permit and send the facility an official hard-copy permit. Staff have begun going back into the office three days a week as of June 15, 2024.

MDE has faced multiple other challenges that have caused delays in issuing permits. MDE's regulations require a physical newspaper notice for title V permits, which can lead to longer wait times to notice draft permit packages due to the additional administrative effort of using physical newspapers over electronic news outlets. MDE also often receives technically incomplete title V renewal applications, which can slow down the permitting process due to back-and-forth correspondence with the applicant. Furthermore, there have been compliance issues at certain facilities that need resolution or a compliance plan before renewal of the title V permit is possible. Approximately 25% of title V permits are delayed because of compliance and enforcement issues. Other challenges cited by MDE that lead to challenges in permit issuance include new EPA rulemakings and lack of EPA guidance with addressing Environmental Justice (EJ). MDE has also faced challenges with switching to a new title V tracking database and staffing challenges, as discussed below under the "Resources and Internal Management Section" section.

Within the last six years, MDE has taken action to improve internal processes for issuing title V permits. The permittee can now send permit applications electronically through email to MDE. Moreover, MDE

scans all issued permits into their new ETS database system. The online permit tracking system serves as a file repository, which has improved file sharing abilities and reduces time searching for documents. MDE is continuously updating the ETS database to better streamline the title V program's internal processes.

D. Resources and Internal Management Support

Fee Adequacy

The Clean Air Act and implementing regulations require MDE to collect adequate fees to cover the costs of its title V permit program. In accordance with 40 CFR Part 70.9(a): *Fee requirement*. The State program shall require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.

Also, in accordance with the CAA §502(b)(3)(C)(iii): " ... any fee required to be collected by a State, local, or interstate agency by this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph A."

MDE title V fees were most recently updated in 2008.⁶ MDE's title V fee structure is codified in COMAR 26.11.02.19. The owner or operator of a title V source is charged an annual fee consisting of a base fee of \$5,000 plus an emission-based fee for each ton of regulated emissions from all installations at the plant or facility. The emission-based fee is calculated as the number of actual annual emissions in tons of regulated emissions multiplied by a base dollar amount of \$50, increased by the percentage by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index of the previous calendar year. The current (2024) per-ton fee is \$73.58. MDE does not charge an initial application fee, renewal application fee, modification fees, or maintenance fees.

Most of title V fee expenditures in MDE are in the form of personnel services (i.e., salaries). MDE indicated that the title V fees collected are not sufficient to support the title V program. MDE has experienced a decrease in title V revenue for multiple years as emissions from title V sources decrease.

MDE should evaluate their fee structure to ensure that the fees collected result in a self-sustaining title V permit program. The evaluation should account for projected decreases in title V fee revenues as title V source emissions decrease. If the evaluation projects that future revenue will not be sufficient to cover program costs, MDE should increase title V fees to a level that is sustainable into the future.

Title V Fees and Revenue Tracking

Currently, MDE's Title V fees are deposited into the Maryland Clean Air Fund. The Maryland Clean Air Fund is used for both title V and non-title V air activities.

Regarding tracking of title V revenue and expenses, it was unclear to EPA what, if any, accounting practices MDE implements to ensure that title V fee revenue is used solely to cover the costs of the title V program, and that the title V fee revenue is adequate for the costs of the title V program. MDE indicated that staff track the hours that they spend on title V activities in spreadsheets and use title V

⁶ <https://dsd.maryland.gov/regulations/Pages/26.11.02.19.aspx>

accounting and timesheet codes to charge MDE's Clean Air Fund. MDE also indicated that they are able to retrospectively determine how much title V revenue was deposited into the Clean Air Fund. However, MDE staff was not aware of any project codes or other accounting methods used in the accounting of the Clean Air Fund such that money, once deposited in the Clean Air Fund, is clearly differentiated as title V or non-title V funds in real-time. To ensure that MDE accurately accounts for all title V program costs in accordance with 40 C.F.R. Part 70.9(b)(1), MDE should develop or explain accounting strategies and standard operating procedures to ensure that title V funds are used solely and exclusively to cover title V program costs.

Furthermore, the current MD statute requires that MDE move funds from the Maryland Clean Air Fund (where title V fees are held) to the General Fund when the Clean Air fund exceeds \$2,000,000 (MD. Environment Code § 2-107)⁷. If title V funds housed in the Maryland Clean Air Fund are moved to the General Fund, this would be in conflict with 40 C.F.R. 70.9(a) which requires that title V fees be used solely for title V program costs. EPA did not identify specific instances where title V fees were moved into the general fund. Rather, EPA is identifying this aspect of the MD statute as a potential issue. MDE should evaluate this MD statute and determine whether it is in direct conflict with 40 C.F.R. 70.9(a), or if there is a means to ensure the MD statute does not conflict with 40 C.F.R. 70.9(a). If the MD statute does conflict with 40 C.F.R. 70.9(a), MDE should take action to revise the MD statute such that MD statutes are consistent with 40 C.F.R. 70.9(a).

Staffing

The MDE Air Quality Permits Program includes a program manager, 3 division chiefs, 11 staff engineers, and 4 administrative staff (with 1 position recently vacated and not yet filled). However, these positions are not exclusively to support the title V program. The program issues all stationary source air permits in Maryland, and, with limited exceptions, all staff engineers typically review and issue all types of permits, including but not limited to minor NSR permits to construct, initial and renewal state permits to operate, initial and renewal title V permits, and permit modifications. Generally, experienced staff engineers are assigned to review more title V permits than new staff.

MDE has lost many of its experienced divisional staff the past few years. MDE has hired 3 relatively new engineers with three or less years of experience. The new staff require extensive training before being assigned to title V permits. MDE believes that it will take time to train and develop newly hired staff to replace the retirements of key personnel in the title V program and for those staff be able to accommodate the title V workload previously handled by now-retired personnel.

In addition to permit application review and permit writing, the development and implementation of new permitting procedures such as proposed bills in the 2024 Maryland General Assembly have resulted in some permitting staff time to be directed away from issuing permits. MDE has indicated the bills cover a wide range of issues that include environmental justice, data centers, crematories, climate change, offshore wind, public participation, and building energy performance standards. For each bill, MDE must provide comments, impact reports, and various supplemental materials.

⁷ <https://mgaleg.maryland.gov/mgaweb/Laws/StatuteText?article=gen§ion=2-107&enactments=false>

Permit Tracking Systems

MDE has been trying to improve and streamline the permit tracking systems in recent years. MDE switched their permit database tracking system from Tools for Environmental Management and Protection Organizations (TEMPO) to ETS in November 2020. The ETS online tracking system tracks all title V permit applications. MDE has run into numerous technical issues with the new ETS tracking system and is in the process of updating ETS to fix the tools to create letters/templates and automate the invoice process. Moreover, MDE's Office of the Secretary has pledged to update ETS in MDE's Fiscal Year 2025 to streamline permit application tracking and title V fee submittals. In the meantime, MDE has been tracking permit invoices manually via spreadsheets and physical files.

Training

MDE actively participates in several training programs for new and existing staff. A new employee is paired with an experienced permit staff member for one-on-one training for their first six months. Staff are regularly encouraged to take trainings that will help them enhance their knowledge, including refresher trainings for all employees. MDE also requires new and current permit engineers to access online training courses via EPA's Learning Management System (LMS) and maintains a list of required and recommended LMS training courses.

MDE is also a member of the Mid-Atlantic Regional Air Management Association (MARAMA) that offers regional air quality training opportunities to member agencies. MDE's Division Chief of the Technical Support Division serves as training coordinator and works with MARAMA to assess annual training needs and coordinates training opportunities with staff. MDE prioritizes training opportunities for newer staff whenever possible.

IV. State Rules

Title V Program Revision

40 CFR subpart 70.4 (i) stipulates whether and when a title V program revision is required. MDE is in the process of finalizing the state rulemaking on the removal of the affirmative defense provisions for title V permits. To request a title V program revision, MDE should submit the state rule to EPA as a proposed title V program revision.

V. Conclusions

EPA would like to thank MDE for its responsiveness and cooperation throughout the evaluation process. Below is a summary of findings in terms of both best practices and areas for improvement. To begin addressing identified areas for improvement, MDE will follow the actions identified in the "action plan" that follows.

A. Summary of Best Practices

EPA's review has identified several best practices of MDE's title V program adopted in implementing CAA and its associated regulations. EPA believes these practices contributed to the improvement in MDE's title V permit program.

Electronic Permit Application Submittals

MDE created a designated email address for permittees to submit permit applications electronically. This process helps both the applicants and permit writers streamline the permit application process and improve MDE's permitting efficiency.

Prenotification Review of Draft Permits

The internal and external prenotification review at MDE helps to improve draft permits and address potential issues in the early stage. As part of the internal review process, the draft permit goes through multiple layers of review by the lead engineer, division chief, and compliance staff. As part of the external review process, the permittee has three weeks to review and comment on the draft permit, which could lead to an overall more efficient permit process.

Public Outreach

MDE's efforts to engage communities are commendable. MDE is enhancing public involvement throughout the permitting process by informing elected officials and community leaders of permitting actions within their communities. MDE encourages the applicant to perform early and consistent community engagement before the application is submitted to MDE. The permittee must try to locate interested community members for at least 60 days. Furthermore, MDE has an extensive network of interested parties and contacts within EJ communities. Some EJ communities have received copies of current title V permits organized by expiration date so that they are prepared for when a renewal is to be expected. EJ community leaders are also alerted 2 weeks before an opportunity to request a hearing is noticed so that the community can gauge interest in the permitting action and prepare possible questions. These best practices help ensure meaningful involvement within the permitting process and allows communities to be more aware of the air permitting actions that may affect the community.

Title V Permit Templates

MDE has developed permit and fact sheet templates for its title V permit program. EPA believes the templates help improve program efficiency.

Training

MDE has developed a robust training plan and mentorship program to ensure new staff are equipped with the tools necessary to implement the title V program. MDE prioritizes training for new staff while simultaneously ensuring their seasoned staff also have access to training resources to maintain their expert knowledge.

B. Areas for Improvement

Title V Fees and Revenue Tracking

- MDE's fee structure does not appear to collect sufficient funds to result in a self-sustaining title V permit program.
- MDE's accounting strategies and standard operating procedures to ensure that title V funds are used solely and exclusively to cover title V program costs were not clearly presented and available for EPA's review.
- MD. Environment Code § 2-107 may be inconsistent with 40 C.F.R. 70.9(a) in that there could be a scenario whereby a portion of MD's title V fees are moved to the MD General Fund.

C. Action Plan

Title V Fees

- Regarding the adequacy of MDE's fee structure, MDE submitted a bill to the Maryland General Assembly for the 2024 session which, had it passed, would have increased title V fees. The bill did not pass in the 2024 session. The 2025 Maryland General Assembly session convenes January 8- April 7, 2025.
 - If a title V fee increase sufficient to result in a self-sustaining title V program is approved during the 2025 General Assembly session, MDE should submit the change to EPA as a title V program revision within 12 months of the effective date outlined in the passed bill.
 - If a title V fee increase sufficient to result in a self-sustaining title V program is not approved in the 2025 General Assembly session, MDE should submit to EPA a report which includes an evaluation of their current fee structure and the expected annual difference between title V fees collected and title V program expenses. The evaluation should account for projected decreases in title V fee revenues as title V source emissions decrease. If the fee structure evaluation projects that future revenue will not be sufficient to cover program costs, MDE should develop and include a plan and timeline for increasing title V fees to a level that is sustainable into the future. MDE should submit the evaluation results, including future fee projections, and the plan to revise fees (if necessary) to EPA by April 7, 2026 (which is 12 months after the expected end of the 2025 Maryland General Assembly session).
- MDE should develop or explain accounting strategies and standard operating procedures to ensure that title V funds are used solely and exclusively to cover title V program costs. MDE should present the strategies it intends to implement, and a timeline for implementing the strategies to EPA by July 1, 2025.
- Regarding MD. Environment Code § 2-107, MDE submitted a bill to the Maryland General Assembly for the 2024 session which, if it had passed, would have changed that section of the code where MD's title V fees could be moved to the MD General Fund. The bill did not pass in the 2024 session. The 2025 Maryland General Assembly session convenes January 8- April 7, 2025.

- If the revision of MD. Environment Code § 2-107 is approved during the 2025 General Assembly session, whereby removing the provision that title V fees could be moved to the MD General Fund, MDE should notify EPA of the change within 6 months of the effective date of the regulation.
- If the revision to MD. Environment Code § 2-107 is not approved during the 2025 General Assembly session, MDE should evaluate MD. Environment Code § 2-107 and determine whether there is a means to ensure the MD statute does not conflict with 40 C.F.R. 70.9(a). If the MDE statute evaluation concludes that MD. Environment Code § 2-107 does conflict with 40 C.F.R. 70.9(a), MDE should include in the report to EPA a proposed process and timeline to revise MD. Environment Code § 2-107 such that the MD statute is no longer inconsistent with 40 C.F.R. 70.9(a). A summary of the evaluation, including justification for the determination, and proposed timeline for revision (if necessary) shall be submitted to EPA by April 7, 2026 (which is 12 months after the expected end of the 2025 Maryland General Assembly session).

APPENDIX

Appendix A

FY 2024 MDE Title V Program Evaluation Questionnaire & Responses

A. Title V Permit Preparation and Content

A.1. Please describe the permit development process, from receipt of an application to final issuance.

a. Administrative Receipt of Application

- The Permits Coordinator receives application by mail or through email and notes the date of receipt.
- The Permits Coordinator logs the application into the ETS permit tracking database and assigns the application to a permit engineer, consulting supervisors as needed.
- The Permits Coordinator prepares and sends a letter to the Permittee acknowledging receipt of the application, identifying the assigned permit engineer, and notifying the permit engineer, the permit engineer's supervisor, and the Title V Coordinator.

b. Verification of Application Completeness

- The assigned Permit Engineer reviews the application for completeness using the "completeness checklist" template prepared by MDE. Items that indicate completeness include timely and complete submission of the application, sufficient copies in both physical and electronic format and confidential and non-confidential copies as needed, all required application forms and required application information, and certification by responsible official.
- The assigned Permit Engineer must send a letter to the Permittee within 60 calendar days of receipt of application. For renewals, the goal is 10 working days. If a letter is not sent within 60 days, the application is considered complete. The letter explains that the Department has found the application to either be administratively complete, thereby granting the Permittee an application shield, or incomplete. If the application is incomplete, the letter must state the deficiencies and request the company to submit the necessary information within two weeks. Information on the application shield can be found in COMAR 26.11.03.
- The Permit Engineer sends a copy of the letter to their supervisor and the Title V Coordinator and records the date of the completeness determination ETS permit tracking database.

c. Technical Review of Application

- The Permit Engineer reviews the premises files and ETS permit tracking database for annual Emission Certification Reports, annual and semi-annual Title V reports, inspection reports, correspondence, registrations, Permits to Construct, State Permits to Operate, consent orders, and compliance schedules.
- The Permit Engineer reviews Emission Certification Report included in the application comparing the report with reports reviewed and accepted by the Air Quality Compliance Program for consistency/accuracy.

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FY 2024 MDE Title V Program Evaluation Questionnaire & Responses

- The Permit Engineer reviews the Air Quality Compliance Program's most recent inspection reports and annual and semi-annual compliance certifications for the facility, comparing the applicable requirements identified in the inspection reports with those listed in the application. The Permit Engineer confers with compliance staff on any on-going or new issues.
- The Permit Engineer reviews and researches State and federal regulations for any new or modified applicable requirements. The Permit Engineer should include origin of authority for all applicable requirements in the Title V permit and supporting fact sheet and note any obsolete or no longer applicable requirements.
- The Permit Engineer completes an EPA Checklist for Title V - Part 70 Operating Permits.

d. Draft Permit Package

- The Permit Engineer drafts the permit conditions and accompanying factsheet using MDE established templates, customizing as necessary for each individual facility. The factsheet explains MDE's determination of the applicable Clean Air Act requirements that are included in the permit. The factsheet should contain the basis for each applicable requirement and compliance strategy, including detailed discussions of why specific requirements apply as well as why other requirements do not apply.
- When regulations or Permit to Construct conditions are not sufficient for the Permittee to demonstrate compliance with applicable standards and limitations, the MDE has the authority under COMAR 26.11.03.06C to establish additional periodic monitoring requirements. The Permit Engineer must discuss in the Fact Sheet the rationale for proposed periodic monitoring requirements.

e. Draft Permit and Factsheet Review Process

- This draft permit package must be reviewed, signed, and dated by the Permit Engineer, the Unit Lead Engineer (if applicable), and the Division Chief.
- The Permit Engineer then sends the draft permit package to the Air Quality Compliance Services Office for review by the assigned Compliance Engineer and supervisor. The Permit Engineer should work with the compliance staff, Unit Lead Engineer, and Division Chief as needed to revise the draft permit and factsheet to incorporate all applicable comments. If there are significant changes, this review process may be repeated several times until all parties agree with what is presented in the draft permit package.
- The Permit Engineer then sends the draft permit package to the Title V Coordinator for review by the Permittee. The Title V Coordinator sends a copy of the draft permit conditions, Fact Sheet, and the document describing the Title V public participation process to the

Permittee. The Permittee is given three weeks to review and comment on the draft documents.

- If Permittee comments are received, the Permit Engineer addresses any substantive comments with supervisors, compliance staff, and the Permittee. The Permit Engineer notifies

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FY 2024 MDE Title V Program Evaluation Questionnaire & Responses

the Title V Coordinator when Permittee comments have been addressed and the draft documents are ready for the formal public review process.

f. Public Participation Process

- The Title V Coordinator handles the entire public participation process. The Title V Coordinator will consult with the Permit Engineer to determine if there are any special considerations that may have an impact on the public participation process. The Permittee may request to schedule a Public Hearing and bypass the opportunity for the public to request a hearing.
- The Title V Coordinator and program administrative staff determine the affected public officials and interested parties and work together to prepare the public notice announcing a scheduled public hearing or an opportunity for the public to request a hearing.
- Program administrative staff arrange for publication of the notice in a local newspaper of general circulation in the area where the Permittee is located and sends an invoice to the Permittee for the publication fee.
- The Title V Coordinator prepares an online docket of the draft permit package and arranges for the package to be uploaded to MDE's website.
- Program administrative staff sends letters and notices to all affected public officials and interested parties. An overview of the Title V process and an online link to the public docket containing the draft permit package are included. The Permittee also receives a copy of the materials sent.
- The Title V Coordinator notifies the affected states of the MDE's tentative determination to issue the permit. If an affected state requests additional information, the Title V Coordinator will send a second email stating the identity of the documents, the dates of the 30-day review period, a contact at MDE (Title V Coordinator), and the draft documents as an attachment.
- The Title V Coordinator emails the draft permit package to EPA Region III to begin their 45-day review period. The email should be sent on the date the Department receives confirmation that the notice has been published in the newspaper.
- If a public hearing is requested during the public opportunity period, the Title V Coordinator will inform the Permit Engineer and make arrangements to hold the hearing. Hearings may be held virtually. The Title V Coordinator prepares the public notice announcing a scheduled public hearing or an opportunity for the public to request a hearing. Supplemental hearing information is added to the online docket.
- Program administrative staff arrange for publication of the notice in a local newspaper of general circulation in the area where the Permittee is located at least 30 days prior to the hearing date and sends an invoice to the Permittee for the publication fee.
- Program administrative staff sends letters and notices to all affected public officials and interested parties. An overview of the Title V process and an online link to the public docket

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containing the draft permit package are included. The Permittee also receives a copy of the materials sent.

- The Title V Coordinator arranges for a court reporter and acts as hearing officer for the public hearing.

g. Response to Comments Received

- The Title V Coordinator receives all public comments made at the public hearing or submitted during the comment period and forwards them to the Permit Engineer for response.
- The Permit Engineer prepares a formal Response to Comments document working with the Unit Lead Engineer and Division Chief as necessary. The document must be approved by the Air Quality Permits Program Manager and Air and Radiation Administration Deputy Director.
- If changes to the draft permit and/or factsheet are required based on the Response to Comments documents, the Permit Engineer will update the draft permit and/or factsheet consulting with the Compliance Program and their supervisor as necessary. The Permit Engineer notifies the Title V Coordinator when the Response to Comments document and revised draft permit and fact sheet have been approved internally and are ready for submission to EPA Region III.
- The Title V Coordinator sends the Response to Comments document and the revised permit package to EPA Region III restarting the 45-day review period. The Title V Coordinator also sends a copy of the Response to Comments document and revised permit package to all commenters.

h. Permit Issuance

- If EPA Region III does not object to the permit, MDE issues the permit. The Title V Coordinator sends EPA Region III a copy of the issued permit and posts a copy online. The issued permit is sent to the Permittee.
- If EPA Region III objects to the permit, the Permit Engineer, in consultation with Unit Lead Engineer, Division Chief, Air Quality Permits Program Manager and Air and Radiation Administration Deputy Director, works to address the comments. When issues are resolved, MDE issues the permit as stated above.

A.2. Please describe efforts MDE has made since 2017 to improve internal processes for issuing Title V permits: revisions of internal procedures and policies, standard operating procedures, etc.

There have been some minor improvements to MDE's process since 2017. MDE has created a dedicated e-mail address for electronic submission of permit applications and issued permits are now scanned and uploaded into the ETS database system for faster access. MDE also sends the scanned copy of the issued permit to the Permittee electronically in addition to a hard copy mailing of the issued permit.

However, due to the pandemic shutdown, there has not been more movement to improve processes for issuing Title V permits. MDE's internal procedures related to Title V permits, established in a Permits Manual in 2016, are due for review and revision. Much of the last 3 years have been spent correcting

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issues with the ETS database system so that it functions as efficiently as its predecessor, but MDE's Office of the Secretary has also pledged to update ETS in order to streamline processes in FY 25 and beyond. Some of the initiatives include allowing Permittees to pay for permit to construct application fees and submit and track permit applications online.

A.3. Please describe any quality assurance processes for Title V permits.

Draft Title V permits and supporting documents must be approved internally by lead staff, Division Chiefs, the Compliance Program, and the Permittee before a draft permit is open for public comment. The Title V Coordinator is responsible for all aspects of the public review, comment, and issuance process and is closely supervised by the Division Chief of the Technical Support Division and the Program Manager. Finally, before a permit is issued, there is final approval by the Program Manager and the Deputy Director of the Air and Radiation Administration.

A.4. Monitoring

a) Please describe the process for developing monitoring requirements within Title V permits.

MDE uses applicable federal and State regulations as the initial basis for developing monitoring requirements within Title V permits. MDE also uses procedures from already established Title V periodic monitoring guidance documents that include examples of acceptable monitoring strategies for common sources of air pollution. When applicable,

Compliance Assurance Monitoring (CAM) plans are reviewed during each renewal to ensure that the monitoring requirements in the plan are aligned with currently accepted practices and demonstrate continuous compliance.

b) Do your statements of basis (Fact Sheets) include a rationale for the monitoring associated with each applicable requirement?

Yes. MDE typically includes relevant permitting history, an applicable requirements discussion, recent results from stack emissions tests, and other relevant information as rationale to support the proposed monitoring strategies in a Title V permit.

c) Please describe your process for supplementing monitoring in instances where the existing monitoring scheme is not sufficient to demonstrate compliance with the applicable requirement.

When existing monitoring strategies are not sufficient for the Permittee to demonstrate continuous compliance with applicable requirements, MDE will add supplemental periodic monitoring per COMAR 26.11.03.06C, as needed. This additional monitoring may include the development and use of operation and maintenance or best management practice plans, more frequent stack testing or compliance demonstrations, or the use of continuous parametric or emissions monitors. Each situation is evaluated on a case-by-case basis in discussion with other staff engineers, supervisors, and the Compliance Program to ensure that the monitoring strategy is feasible and adequate. Recent noncompliance or monitoring data that shows values close to applicable limits warrant more stringent and frequent monitoring requirements.

A.5. Are there any new rules in the Title V program since 2017?

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MDE's Title V program has remained unchanged since the last evaluation in 2017. MDE has proposed the removal of the affirmative defense provisions for Title V permits in COMAR 26.11.03.24 based on EPA's removal of the provisions on July 12, 2023, and guidance from EPA to remove the provisions from Maryland's Title V program requirements within one year of the final rule. The hearing on the removal of COMAR 26.11.03.24 will be held on May 20, 2024, and the provisions will be removed following the hearing process.

B. Public Participation and Outreach

B.1. Please describe the process for public participation from receipt of an application to final permit issuance.

See response A.1.f through A.1.h.

B.2. When are hearings held? How does MDE decide whether or not to hold a hearing?

A public hearing for a Title V permit can be directly scheduled if there is already known public interest or it will be scheduled after MDE receives a request for a public hearing. Unless the request is not legitimate or the requester decides to withdraw the request after discussing the project with the Permittee and/or MDE, a hearing will be scheduled if requested.

MDE has a relationship with many active community organizations throughout the state and will reach out to those groups to determine if there is interest in a public hearing for a draft permit in the affected area. Since the Title V permit does not authorize the installation of any new air pollution emitting equipment or processes, the community groups are not always interested in attending a public hearing, but they appreciate the opportunity to review the draft documents online and the ability to submit comments during the comment period.

B.3. Please describe how MDE interacts and engages with the public when comments are made.

Comments made at a public hearing are recorded by a court reporter. MDE does not typically respond to comments made during the hearing unless they are non-substantive questions or requests for clarifications that are unrelated to the actual content of the draft permit package. Following the hearing and upon receipt of the transcript provided by the court reporter, MDE collects and categorizes all comments received at the hearing and in writing during the comment period and prepares a formal Response to Comments document. The Title V Coordinator acknowledges receipt of all written comments and informs the public of the next steps in the process.

B.4. How does MDE engage with environmental justice communities as related to Title V permit issuance?

MDE has worked extensively with EJ communities to ensure that the public in those areas are given as much advanced notice as possible of any Title V permit actions. Currently, the main EJ communities that MDE works with include the Curtis Bay area in Baltimore City, the Brandywine area in southern Prince George's County, and the Town of Cheverly, also in southern Prince George's County. Some EJ communities have requested and received copies of current Title V permits in the area by expiration date, so that they know when a renewal might be expected.

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Approximately two weeks before an opportunity to request a hearing or a scheduled hearing notice is ready to be published, MDE will reach out to EJ community leaders, share the draft documents, and invite them to ask questions or request a meeting with MDE to discuss the draft permit package. This allows the community leaders time to reach out to their communities to see if there is any interest in the permit.

B.5. How do you respond to public comments? Are commenters notified of final permit/RTC issuance and provided with a copy of your RTC?

See response A.1.g.

C. Permit Issuance

C.1. According to MDE's Title V Operating Permit System (TOPS) reports, the statewide renewal backlog increased significantly as of 2020 though it is relatively average for EPA Region 3 permit authorities. When permits are delayed, what factors cause delays?

- **Pandemic Shutdown Transition to Virtual Work** - The pandemic shutdown in March 2020 caused the entire program to move to virtual work. Staff needed to be equipped with laptops, remote network access, and did not have access to hard copy files. The entire internal review process was converted to a virtual review process which was difficult to track and maintain. Although many of the computer and software issues have been resolved, most of MDE is still not back in the office full-time.
- **Database Switch** – In November 2020, during the pandemic shutdown, MDE's IT Department decided to switch from our functioning TEMPO database to a new ETS database tracking system. ETS was not ready to be deployed. There were significant issues with data migration from the TEMPO database into ETS, and tools used to create letters and cover pages from templates in TEMPO had to be recreated and are still being corrected as of this date. The biggest issue resulting from switching to ETS was the loss of the automated invoice process that generated monthly invoices for Title V emissions-based fees. This process was not functional in ETS when IT went live with ETS in November 2020. Each Title V invoice had to be created manually by administrative staff from November 2020 through December 2023 while working extensively with IT to redevelop the tool in ETS. This took time away from logging in Title V applications, generating receipt letters, and running tax checks (Maryland legal requirement) on renewals.
- **Staff Loss Due to Retirement** – As noted in MDE's last Title V evaluation, many experienced permitting staff were close to or already eligible for retirement. From 2019 to 2022, the Air Quality Permits Program lost its Program Manager, all three Division Chiefs, and two experienced engineers to retirement. The last vacancy created by those retirements was just filled in March of 2024. The current staff is significantly less experienced with managing staff and projects, and it has been difficult to train new engineers during a pandemic shutdown.
- **Newspaper Notice Requirement** – Although federal Title V regulations have been updated to no longer require a physical newspaper notice for Title V permits, MDE's regulations still require it. Many physical newspapers have switched to online publication, but MDE's regulations still require a physical newspaper of general circulation in the area. In order to avoid delays in waiting for the Permittee to

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post the notice, MDE arranges for publication of the notice in the newspaper and then invoices the Permittee for the publication fee. This process requires administrative staff to obtain a quote from a physical newspaper, prepare a requisition form, obtain Program Manager approval, submit the quote and requisition to the Operations Services program for approval, then pay for the notice using the program's credit card. This process can take up to two weeks for each notice, limiting MDE's ability to post public comment periods for proposed Title V permits to an average of two per month. The Air Quality Permits Program has been unable to change MDE's regulatory requirement.

- Incomplete Applications – Title V renewal applications are due one year in advance of the expiration date of the current permit and are often technically incomplete or need to be revised due to planned changes at a facility. Additional submissions, corrections, and general correspondence between the applicant and permitting staff to clarify issues can slow down the review process.
- Other Factors – See response C.2.

C.2. Do any of the following impact ability to issue timely Title V permits (initial or renewal)?

a. SIP gap/backlog

Not at this time, but it had an impact in the past.

b. Pending revisions to underlying NSR/PSD permits

Yes. MDE issues hundreds of minor NSR permits and many Title V sources will install or replace boilers, generators, and other miscellaneous air pollution emitting equipment continuously. It is often difficult to find the right time to draft the renewal permit so that it is in the most complete form for issuance.

c. Compliance/enforcement issues

Yes. Enforcement actions and consent orders take time to resolve (in some cases, years), and the permit cannot be issued when there isn't a resolution of the issues or an official plan for compliance. Often, additional minor NSR permits must be issued first to resolve the compliance issues, or additional stack emissions test must be performed, so the Title V permits cannot be issued until those permits are issued or tests showing compliance are completed. If the minor NSR permit triggers Maryland's expanded public participation process, the permit may not be issued for 6 months or longer.

d. EPA rulemaking

Yes. There have been a number of proposed and final changes to federal regulations that have affected our ability to use our staff resources effectively. Examples include changes to regulations impacting affirmative defense provisions for Title V permits, stationary engines, ethylene oxide commercial sterilizers, bulk gasoline terminals, oil and gas facilities, and power plants. Other regulatory changes related to minor NSR reform, project emissions accounting, and Title V applicable requirements also affect our program's current process for issuing Title V permits.

e. Lack of EPA guidance

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Yes. Lack of national EPA guidance regarding EJ and how to incorporate EJ into Title V permits has resulted in states attempting to develop their own policies, which may be inconsistent with other states. EJ is brought up more frequently during the Title V permit comment period, but it is not clear how to incorporate EJ into Title V permits.

f. Competing internal priorities

Yes. MDE's current priorities are addressing environmental justice and climate change issues. It is becoming increasingly difficult to issue Title V permits without addressing these priorities.

g. Other (please specify)

There are a larger than normal amount of proposed bills in the 2024 Maryland General Assembly that impact MDE's ability to issue permits. The bills target public participation, environmental justice, data centers, crematories, power plants, and climate change, including controlling methane emissions from landfills, offshore wind, and building energy

performance standards. MDE's Air Quality Permits Program must provide comments, responses, fiscal and operational impact reports, and other supplemental materials throughout the Maryland General Assembly's legislative session (January through early April). For any bills that become final, permit processes and regulations will need to be modified to incorporate the requirements of these new laws. These changes put a strain on MDE's existing resources.

C.3. Please describe the permit appeals process at the state level. How often are TV permits appealed? Does MDE have a process to inform EPA when permits are appealed?

COMAR 26.11.03.11 states that if MDE denies a Title V permit or issues a Title V permit with terms and conditions that are objectionable to the Permittee, the Permittee may request that a contested case hearing be held regarding the permit. This request must be made to MDE in writing no later than 15 days after the Permittee receives notices that the Title V permit has been denied or issued with the objectionable terms and conditions. The request shall include the basis for the request and refer to any objectionable terms and conditions.

MDE will refer the Permittee's request to the Office of Administrative Hearings (OAH) for a contested case hearing regarding the denial of the permit or the objectionable terms and conditions. If objectionable terms and conditions are the basis for the request, the referral is limited to the objectionable terms and conditions and any others that are necessarily implicated by a challenge to the objectionable terms and conditions.

Following referral to the OAH, the Permittee shall provide notice of the contested case hearing, at the Permittee's expense, to the EPA, any affected state that commented on the draft or proposed permit, and any other person who has requested notice. The Permittee shall also provide notice in a newspaper of general circulation in the area where the Title V source is located. The form and content of the notices must be submitted to the OAH appointed administrated law judge for approval prior to publication and distribution.

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The EPA has the right, at its discretion, to participate as a party in a Title V permit contested case hearing. Any other person may move to participate in the contested case hearing in accordance with the requirements of Maryland law. If the EPA does not participate in the contested case hearing, MDE provides the EPA with a copy of the proposed decision of the OAH appointed administrative law judge and 45 days to comment before the MDE issues its final decision in the contested case. If the EPA comments within 45 days, MDE shall provide a copy of those comments to all parties to the contested case hearing and 10 days to respond to those comments.

After the end of this comment period, or without a comment period if EPA participated in the contested case hearing, MDE shall issue its final decision in the contested case.

Title V permit appeals are rare in Maryland. MDE does not currently have records of any Title V permits that have been appealed.

C.4. How often do compliance issues impact the timeliness of your Title V actions?

Approximately 25% of pending Title V permits are delayed due to on-going compliance issues ranging from minor record keeping and monitoring violations to larger violations related to installing equipment without appropriate construction permits or exceeding a permit limit through a failed stack emissions test or recorded by CEMs.

C.5. How are compliance issues resolved prior to permit issuance?

See response to C.2.c.

D. Resources and Internal Management Support

D.1. Please describe tracking systems used for the Title V program. How do the tracking systems contribute to the efficiency of your Title V program?

MDE uses the ETS permit tracking database to track all Title V permit applications. Received applications are logged into the database and assigned to a permit engineer. There is a Work Activity Log with tasks for the review in the database to keep track of progress. Monthly reports for each permit engineer are generated using a reporting tool that extracts pending permit application information from ETS. In addition, the Program Manager works closely with the Division Chief of the Technical Support Division and the Title V Coordinator in that Division each month to determine which draft permit packages are ready for company comment, public comment and EPA review, or for issuance, or have received comments. The Title V review process has long-term milestones that are not as easily tracked in ETS, so this secondary tracking process involving the Program Manager, Division Chief, and Title V Coordinator keeps the Title V review process continuously moving.

D.2. Please describe current staffing levels. Are staffing levels sufficient in relation to permitting workload? What is the process for determining sufficient staffing?

The Air Quality Permits Program includes a Program Manager, 3 Division Chiefs, 11 staff engineers, and 4 administrative staff (with 1 position recently vacated and not yet filled). The program issues all stationary source air permits in Maryland, and, with limited exceptions, all staff engineers typically review and issue all types of permits. In 2023, the program issued 450 minor NSR permits to construct,

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78 initial and renewal State Permits to Operate (from a universe of approximately 360 sources), and 21 Title V permits (from a universe of 112 sources). The program does not have staff engineers who are dedicated to reviewing only Title V permits, although experienced staff engineers are assigned to review more Title V permits than new staff.

Staffing is currently insufficient to issue Title V permits in a timely manner and resolve the backlog created by the pandemic shutdown and retirements of key personnel in the program. There are 3 relatively new engineers with 3 or less years of experience who require extensive training before being assigned to Title V permits. With approximately 500 minor NSR permits to construct and on-going renewals of 360 State Permits to Operate and 112 Title V permits each year, coupled with more extensive public interest in all types of permits the program issues and an increase in public comments on Title V draft permits, it has been difficult for engineers to dedicate time to handle more than they are already assigned.

To measure whether staffing is sufficient, MDE's Air Quality Permits Program is required by MDE to issue 90% of permits within established standard permit turnaround times. Prior to the pandemic, this goal was met consistently for nearly all permit types. For FY 2021 (July 1, 2020 to June 30, 2021), performance dropped to less than 50% for permits to construct and State Permits to Operate and 0% for Title V permits issued on time. From FY 2022 to FY 2023, the program has increased performance for permits to construct and State Permits to Operate from 60% to 70% and for Title V permits from 0% to 40%. The Title V permit backlog has decreased significantly so that the program can focus more on issued newer applications received on time, but there are still not enough experienced staff to return to the pre-pandemic level. Newly appointed Division Chiefs, once staff engineers, and the Program Manager are stepping in as necessary and when available to issue permits when the program is overloaded.

D.3. Please describe the process for ensuring new and current permit writers have access to adequate training.

MDE places a strong emphasis on providing adequate and on-going training to new and current permit engineers. In addition to one on one, hands on in-house training with experienced permit staff over the course of the first six months for new engineers and refresher presentations for all engineers,

MDE also requires new and current engineers to access online training courses via EPA's Learning Management System (LMS). MDE maintains a list of required and recommended LMS training courses for permit engineers.

MDE is also a member of the Mid-Atlantic Regional Air Management Association (MARAMA) that offers regional air quality training opportunities to member agencies. Our Division Chief of the Technical Support Division serves as MDE's Training Coordinator for Air Programs and works with MARAMA and Air Program Managers to assess annual training needs and coordinates training opportunities with staff. The timing, availability of training, and the cost of training often impact MDE's ability to provide adequate training, so MDE prioritizes training opportunities for newer staff whenever possible.

In 2023 and 2024, MDE's Air Quality Permits Program has been able to send staff engineers to training courses as follows:

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- Two new staff engineers attended MARAMA-sponsored training in July, August, and September 2023 in Virginia, Delaware, and Pennsylvania.
- One experienced staff engineer attended the April 2023 NACAA Air Toxics Conference in Chicago.
- Two experienced staff engineers completed online advanced permitting training offered by MARAMA in March 2024.
- MDE's newest staff engineer who started in March 2024 is registered to take online MARAMA training on control of particulate matter emissions in May 2024.
- Three experienced staff engineers are registered to attend Lakes Environmental online AERMOD training in June 2024.

D.4. Title V Fees

a. Please describe your Title V fee structure.

MDE's current Title V emission-based fee structure was established by Maryland statute and codified in COMAR 26.11.02.19. Title V sources are required to certify emissions annually, and MDE assesses an annual, emissions-based fee. All Title V sources must pay a \$5000 base fee per regulations plus a statutorily mandated per-ton fee that is adjusted at the beginning of every calendar year based on the Consumer Price Index (CPI). The current (2024) per-ton fee is \$73.58. MDE does not charge an initial application or renewal application fee, or maintenance fees. Together, these funds constitute Maryland's Title V revenue stream to support program costs.

b. How does MDE track Title V fee usage and ensure that Title V fees are used in accordance with 40 CFR Part 70 fee requirements?

Title V related expenditures are tracked through the use of codes to capture eligible salary costs and other direct costs. All staff and managers are aware of the requirement to use Title V revenues only on Title V activities.

c. Are fees adequate to fund Title V activities?

No. The revenues generated from emission fees are not adequate to cover costs. Adding in the overall revenue from the \$5,000 base fee for Title V sources does not change that outcome. The shortfall is due to Title V sources reducing overall emissions and the closure of many of the largest emission sources in Maryland. Other revenue streams (State general funds and special funds) are used to supplement the deficient Title V revenue stream.

d. Describe any recent activities MDE taken to ensure Title V fees are adequate.

For the 2024 Maryland General Assembly Legislative Session, a bill was introduced that included a significant increase in the per ton emissions-based fee, increasing it from \$73.58 per ton to \$200 per ton

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of emissions, with the ability to increase the fee every year with the CPI, but it did not pass. The expectation is that the Department will repropose a fee bill next legislative session (January 2025).

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MDE Semiannual TOPS Report

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Semiannual Title V Permit Data Report

This information request is authorized pursuant to the Information Collection Request for Part 70 Operating Permit Regulations, EPA Number 1587.06, OMB Number 2060-0243; April 2004.

Permitting Authority:	Maryland	
D. Report Date:	June 2024	
Reporting Period:	<input checked="" type="checkbox"/> January 01 – June 30, 2024 *Report due July 31*	<input type="checkbox"/> July 01 – December 31, *Report due January 31*

Data Element	Reported Value	Information
1. Outstanding Permit Issuance	a) Number of final actions: not applicable	<ul style="list-style-type: none">Total final actions on Permitting Authority-specific permit issuance commitments (i.e., agreements by the Permitting Authority to complete action on initial permits within a specified time-frame, such as agreements related to the 2001 citizen comments).If the Permitting Authority does not have a commitment, enter "not applicable" in 1(a) and 1(b).
	b) Total commitment universe: not applicable	
	c) Date commitment completed (if applicable):	

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2. Total Current Part 70 Source Universe and Permit Universe	<p>a) Number of active part 70 <u>sources</u> that have obtained part 70 permits, plus the number of active part 70 <u>sources</u> that have not yet obtained part 70 permits:</p> <p>109</p> <p>a. 107 current Title V sources</p> <p>b. 2 new Title V source</p> <p>1. ODEC Wildcat</p> <p>2. Eastern Landfill Gas</p> <p>Closed or No Longer Title V: CP Crane, WSSC Westernport, US Army Lab</p>	<ul style="list-style-type: none">• The total current part 70 <u>source</u> universe includes all sources subject to the Permitting Authority's part 70 program applicability requirements (i.e., provisions comparable to §70.3).• In 2.a), count all active sources that either have obtained or will obtain a part 70 permit. EPA expects that this data will be primarily based on the Permitting Authority's application and permit tracking information. If, however, the Permitting Authority is aware of part 70 sources that are not yet captured by application or permit information, count those sources as well.• Do <u>not</u> count sources that are no longer subject to part 70, such as sources that have shut down, or become natural minors or synthetic minors, and do not have an active part 70 permit.• Do <u>not</u> double count sources included in 2.b).
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Total Current Part 70 Source Universe and Permit Universe (Continued)	b) Number of part 70 <u>sources</u> that have applied to obtain a synthetic minor restriction in lieu of a part 70 permit, and the part 70 program's permit application due dates for those sources have passed: 0	<ul style="list-style-type: none"> Element 2.b) is intended to capture the universe of part 70 sources that are seeking synthetic minor restrictions in lieu of part 70 permits, but haven't received those restrictions before becoming subject to the part 70 program's permit application requirements. If the part 70 applications don't readily identify sources seeking such restrictions, the Permitting Authority may include those sources in 2.a), and need not break them out here. However, EPA expects Permitting Authorities to consider pending synthetic minor requests <u>not</u> addressed in part 70 applications to calculate this portion of the part 70 source universe. Count sources that currently meet the part 70 program's applicability requirements, their part 70 application due dates have passed, and they have requested but not yet received synthetic minor restrictions in lieu of a part 70 permit (or permit renewal). Also count active sources whose synthetic minor restrictions have expired (i.e., no synthetic minor restrictions are currently in place, even though they may be eligible for such restrictions) and are past their part 70 program's application due date. Do <u>not</u> count sources that have active synthetic minor restrictions and are no longer subject to part 70. Do <u>not</u> double count sources included in 2(a).
	c) Total number of current part 70 <u>sources</u> (a+b): 109	

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	<p>d) <i>For permitting authorities that issue multiple part 70 permits to a single source:</i> total number of active part 70 <u>permits</u> issued, plus part 70 <u>permits</u> applied for:</p> <p>not applicable</p>	<ul style="list-style-type: none"> For Permitting Authorities that issue multiple part 70 permits to a single source, and these permits are issued and tracked separately, report the total permit universe, including # of active part 70 permits issued (element 3 below), plus permits applied for (based on pending applications). This information is for correlating data when the Permitting Authority's part 70 <u>permit</u> universe may be greater than the part 70 <u>source</u> universe. For Permitting Authorities that do not issue multiple permits to a single source, or for those that issue and track multiple permits issued to a source on a source-wide basis, enter "not applicable" in 2.d).
<p>3. Total Active Part 70 Permits</p>	<p>Total number of active part 70 permits:</p> <p>107</p>	<ul style="list-style-type: none"> This element includes all <u>active</u> initial and renewal part 70 permits issued by the permitting authority. Do <u>not</u> count inactive permits, i.e., permits that are no longer in effect due to source shutdown, synthetic minor restrictions, etc. Note: the procedures for rendering part 70 permits no longer effective may vary, depending on the part 70 program. Do <u>not</u> count both initial and renewal permits (or prior renewal and current renewal permits) issued to the same source; i.e., do not double count. Count permits that have been extended (see 6.b. below), but do <u>not</u> count permits that have expired, or have been voided, revoked, etc. Count each source covered by a general permit separately for this data element. If a single source has several general permits and/or source specific permits, refer to the information for permitting authorities that issue multiple part 70 permits to a single source. For permitting authorities that issue multiple part 70 permits to a single source and included information in element 2(d), count each permitted portion of the source separately for this element. This distinction is for correlating this data element with the permit universe information in element #2(d).

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4. Timeliness of Initial Permits (PART element)	<p>a) Total number of initial part 70 permits issued during 6 month reporting period:</p> <p>1 for CPV St. Charles</p>	<ul style="list-style-type: none"> This data element tracks the initial part 70 permits issued as final (e.g., not draft or proposed) during the 6 month reporting period covered by this report, and whether they were issued within 18 months of receipt of an administratively complete application. For TOPS purposes, initial permits are permits that are issued to any source that has become subject to part 70 for the first time, or any source that comes back into the part 70 program after a period of not being subject. If no initial permits were issued during the 6 month reporting period, report "zero" in 4(b), and "not applicable" in 4(a).
	<p>b) Number of initial part 70 permits finalized during 6 month reporting period that were issued within 18 months:</p> <p>0</p>	<ul style="list-style-type: none"> Start the 18-month clock on the submittal date of an administratively complete application. For purposes of this data element, do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each permitted portion of the source separately for this element. This distinction is for determining individual permit timeliness.
5. Total Outstanding Initial Part 70 Applications	<p>The number of active initial part 70 applications older than 18 months:</p> <p>1 ODEC Wildcat</p>	<ul style="list-style-type: none"> This element tracks <u>all</u> active, administratively complete <u>initial</u> part 70 permit applications that the permitting authority has not taken final action on within 18 months of receipt of the administratively complete application. Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. For TOPS purposes, initial part 70 applications are applications for sources that are subject to title V for the first time, or for any source that comes back into the title V program after a period of not being subject. Do <u>not</u> include renewal applications. Include all current outstanding initial applications, including those that may also be tracked in data element #1. Do <u>not</u> count initial applications the Permitting Authority has taken final action on.

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6. Outstanding Renewal Permit Actions	a) Total number of expired permits for active part 70 sources: 0	<ul style="list-style-type: none">• This data element tracks the total number of expired permits for active part 70 sources. Part 70 permits expire after 5 years if the sources do not submit timely and complete renewal applications, or if they have lost their application shield by not timely responding to additional requests for information.• Include expired permits that have been addressed through consent orders or other enforcement mechanisms. Expired permits can be further addressed in the "Additional Information" element.• Do <u>not</u> include permits that have expired because the source is no longer subject to Title V; i.e., they have shutdown or have received synthetic minor restrictions. <p>For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each expired permit separately.</p>
Outstanding Renewal		

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MDE Semiannual TOPS Report

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<p>Permit Actions</p> <p>(Continued)</p>	<p>b) Total number of active permits with terms extended past 5 years:</p> <p style="text-align: center;">31</p> <ol style="list-style-type: none"> 1. KMC Thermo Brandywine 2. Perdue Agribusiness 3. NSA Bethesda 4. Lehigh 5. Raven Power Ft. Smallwood 6. Midshore II Regional Solid Waste Facility 7. Gold Bond Building Products 8. Terumo Cardiovascular Systems 9. Terumo Medical Center 10. Petroleum Fuel and Terminal Clinton Street 11. Backriver WWTP 12. Diageo NA 13. Mettiki Coal 14. Holcim 15. NIH 16. Sandy Hill Landfill 17. US Gypsum 18. WL Gore 19. Johns Hopkins Hospital 20. Vicinity Energy Central Avenue 21. 40 West Landfill 22. Charles County Municipal Landfill 23. Transcontinental Pipeline 24. Quarantine Landfill 25. Northern Municipal Landfill 26. BWI Airport 27. SSA 28. Energy Transfer Marketing Terminals 29. Newland Park Landfill 30. Washington Gas - Rockville 31. Colonial Pipeline - Dorsey 	<ul style="list-style-type: none"> • This data element tracks the total number of active permits that have been extended past the original 5 year permit term. Part 70 permits or permit conditions are extended beyond the original 5 year term when sources submit a timely and complete renewal application (and any timely and complete additional information requested by the permitting authority), but the permitting authority has not yet issued a renewal permit. • Count all extended permits, including extended permits for sources that submitted timely and complete renewal applications within the last 18 months. Pending applications that are less than 18 months old can be further addressed in the "Additional Information" element. • Do <u>not</u> include inactive extended permits, i.e., when a subsequent permit renewal has been issued or a source is no longer subject to part 70. • Do <u>not</u> include "expired part 70 permits" that have been addressed through consent orders or other enforcement mechanisms. Count expired permits in 6(a). • For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each extended permit separately.
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Appendix B

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7. Timeliness of Significant Modifications (PART element - a and b only)	a) Total number of significant modifications issued during 6 month reporting period: 0	<ul style="list-style-type: none"> This data element tracks the number of significant modifications issued as final (e.g., not draft or proposed) during the 6 month reporting period. It also tracks the number of those modifications that were issued within 18 months of receipt of an administratively complete significant modification application, and also the number that were issued within 9 months. Note that 7(c) is a subset of 7(b). If no significant modifications were issued during the 6 month reporting period, report “zero” in 7(a) and “not applicable” in 7(b) and 7(c). Start the application clock on the submittal date of an administratively complete significant modification application. Do not restart the clock for additional information submissions.
	b) Number of significant modifications finalized during 6 month reporting period that were issued within 18 months: not applicable	
	c) Number of significant modifications finalized during 6 month reporting period that were issued within 9 months: not applicable	
8. Outstanding Significant Permit Modifications	Total number of active significant modification applications older than 18 months: 0	<ul style="list-style-type: none"> This element tracks all active, administratively complete significant permit modification applications that the permitting authority has not taken final action on within 18 months of receipt of the administratively complete application. Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. Do <u>not</u> count significant modification applications the Permitting Authority has taken final action on.
9. Comments and Additional Information	None	Permitting authorities may provide any additional information in this section. For example, a permitting authority may address data changes, data management issues, general permits, multiple permits issued to single stationary sources, synthetic minor information, additional relevant data, etc.

Appendix C
Graph of MDE Backlog from 2017 – 2023

