

**Clean Air Act Title V Program Evaluation Report**  
**District of Columbia Department of Energy and Environment – FY2023**  
**Prepared By: EPA Region 3**  
**September 6, 2023**

**I. Executive Summary**

For fiscal year 2023, Environmental Protection Agency Region 3 (EPA) evaluated District of Columbia Department of Energy and Environment’s (DOEE) Clean Air Act title V permit program. 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 DOEE prepares title V permits in accordance with title V rules and regulation. DOEE’s public participation process includes extensive public engagement. In the past five years, DOEE has also improved TV program efficiency through increasing TV fees, starting a synthetic minor program, and developing a new online permit application submission system. During the program review, EPA identified that DOEE’s program faces a challenging backlog and other issues could potentially hamper the permitting process. To address these issues, DOEE has agreed to implement the synthetic minor permit program, evaluate and optimize the efficiency of their data management resources, enhance training and developing permit writers. In collaboration with EPA, DOEE will determine the appropriate prioritizing strategies to address backlogged permits.

**II. Introduction**

For fiscal year 2023, Environmental Protection Agency Region 3 (EPA) evaluated District of Columbia Department of Energy and Environment’s (DOEE) Clean Air Act title V permit program.<sup>1</sup> Title V program evaluations are part of EPA’s routine oversight of District programs with the intent of identifying best practices, areas for improvement, and ways in which EPA can improve its oversight role.

This evaluation considers DOEE’s title V permit program 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. Stephen Ours is the air permitting manager for DOEE and provided the requested information to EPA for this report.

**III. Evaluation**

To gather information, EPA provided DOEE with a questionnaire on February 16, 2023 (Appendix A). Written responses were requested and received by April 28, 2023 (Appendix B). On May 24 and June 6, 2023 EPA’s Matthew Willson (Former District of Columbia Air Permits Contact), Justin Leary (District of Columbia Air Permits Contact) and Tom He held a follow up video conference call with DOEE’s Stephen Ours (Air Quality Permitting Branch Chief). The content of this report is based on the written questionnaire responses, the follow up video call with DOEE Air Quality Division (AQD) subsequent

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<sup>1</sup> Approved 4/16/2003 at [68 FR 18581](#).

correspondence with DOEE, publicly available information on DOEE's website, and EPA's experience working with DOEE'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 DOEE.

#### **A. Title V Permit Preparation and Content**

In District of Columbia, all title V permits are submitted through an online application system, processed by a permit engineer following a title V permit standard operating procedures (SOP) (Appendix C), and fully reviewed by DOEE Permit Branch Chief before prenotification draft, public participation and permit final issuance.

Based on EPA's recommendation from last program evaluation in 2016, DOEE developed a title V permit SOP which details the complete title V permitting process in District of Columbia. The two core sections of the SOP include the permit application procedures and the permit processing procedures. The permit application procedures section describes procedures related to permit application format, submission, receipt, and completeness review. The permit processing procedures section describes the step-by-step process that the permit writer should use to develop and issue an initial or renewal title V permit and associated documents. This section also details the requirements and procedures for administrative amendments and minor and significant permit modifications.

DOEE introduced a new online/electronic application submission system in October 2021. The new online application system also serves as file repository, which has improved file sharing abilities and reduces time searching for documents. DOEE has established a central location for template language for certain sections of the permit rather than relying on use of recently issued permits as templates.

All title V permits from DC are thoroughly reviewed by the branch chief before issuance in prenotification draft form. The prenotification draft process gives the permit applicant, EPA, and the Compliance and Enforcement Branch the opportunity to review the documentation before issuance of the draft permit. Any changes from the prenotification draft to the draft, as well as any changes from the draft to the final permit are also thoroughly reviewed by the branch chief. This practice ensures the quality and consistency of the permit issued, but at the same time it could lead to delay of permit issuance in some instances.

EPA identified some of the best practices adopted by DOEE which are beneficial and enable DOEE to manage its title V permit program effectively. For example, the SOP enables the facility and public to better understand the permit process and thus facilitates public participation. The newly established electronic / online permit application system in DC improves the efficiency of the permit process. The prenotification draft practice in DC help to improve the draft permit and address potential issues in the early stage and lead to an overall more efficient permit process.

#### **B. Public Participation and Outreach**

DOEE's public participation process is described within the SOP and the questionnaire response. DOEE's public participation process satisfies the requirements in part 70 and goes further in attempt to address

environmental justice concerns. DOEE uploads the public notice to the D.C. Register website<sup>2</sup> for publication on the next available Friday publication date. The public notice and the relevant permit documents are sent to the DOEE's webmaster for publication on the D.C. Public Notice & Hearings Webpage<sup>3</sup> on the same date as the D.C. Register. DOEE solicits comments for a minimum of 30 days but frequently extends the public comment periods when requested. The public notice is also emailed directly to individuals identified as an appropriate community contact as determined by an environmental justice review. Notification in the form of a link to the D.C. Public Notice & Hearings Webpage is sent to affected State's permit program contacts on the date of publication. DOEE has recently begun implementing procedures to notify local elected officials (Area Neighborhood Commissioners (ANCs)) when draft permits are being proposed in their neighborhoods if environmental justice concerns are apparent in the area.

When DOEE receives a public hearing request, DOEE typically grants the request unless there is strong reason for denial. Denials only occur after consultation with legal counsel and upon decision by upper levels of DOEE management. Once a public hearing is granted, notice of the public hearing is posted with the date, time, and location of the hearing in the D.C. Register and on DOEE's website for a minimum of 30 days before the hearing occurs. DOEE will occasionally schedule a public hearing at the outset of the public comment period when a permit is expected to be controversial.

All relevant comments received during the public comment period and at any public hearing are addressed. The permit writer and/or the permitting branch chief develop a comment response memorandum. If there are substantive comments, the comment reconciliation memorandum along with the revised "proposed permit" are sent to EPA starting the 45-day period. During this 45-day period, EPA may object to the issuance of the permit. If no substantive comments are received, or if a decision is made to issue the permit following the comment reconciliation and EPA's 45-day review, DOEE may issue the final permit. If substantive comments from the public are received the comment response memorandum is posted on the DOEE website along with the final permit action.

### **C. Permit Issuance**

On December 13th, 2005, DOEE and EPA entered into an agreement memorialized in a Memorandum of Understanding (MOU) (Appendix D) regarding DOEE's implementation of its title V operating permit program. In the MOU, DNREC 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
- The District of Columbia shall 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.

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<https://www.dcregs.dc.gov/Common/DCR/SearchAgency.aspx?AgencyName=Environment,%20District%20Department%20of%20the>

<sup>3</sup> <https://doee.dc.gov/service/public-notices-hearings>

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. DOEE has several backlogged permits but recently have issued some highly complex and resource intensive permits. D.C. has a total of 39 active title V sources according to the semiannual title V permit data (TOPS) report for the first half of 2023 (Appendix E). The recent issuance of Verizon Metro Communication Center synthetic minor permit reduced the total active title V permits down to 38. DOEE's total backlog is at 16 permits or 42% of the DC permitting universe as of August 2023. The number of back logged permits has remained relatively steady over the past 5 years. There is one outstanding initial permit in prenotification phase. There are 15 outstanding renewal permits action in the backlog. There are 6 significant modification permits 18 months past the receipt of an application. DOEE has updated EPA with the status of the backlogged permits are in the process.

Within the last 5 years, DOEE has taken several actions to reduce the number of backlogged permits. In June 2020, DOEE was able to increase title V permit fees enabling more financial resources to go to the program. DOEE has developed a synthetic minor program which is expected to reduce the overall universe of title V facilities. EPA noted that DOEE has not yet submitted the regulations associated with the synthetic minor program to EPA as a state implementation plan (SIP) revision. To ensure synthetic minor permits conditions are federally enforceable, the 2020 rulemaking action that created the synthetic minor program should be submitted by DOEE to EPA requesting they be included in the DC SIP.

DOEE has faced multiple challenges that have caused delays in issuing permits. For instance, the development and implementation of new permitting procedures such as synthetic minor program and EJ related permitting processing cause delays in permitting issuance since staff resources are limited. Additionally, DOEE has recently focused on working towards issuing some of the oldest and more complicated permits. With more resources focused on these complex permits, this caused delays in issuing some of the simpler permits in the backlog. DOEE has also experienced temporary staffing challenges with vacant positions needing to be filled. One key title V permitting position was vacant for a full year before being filled. Furthermore, there have been compliance issues at certain facilities that need resolution before renewal of the title V permit is possible. Finally, since DOEE is a small department with limited resources, competing internal priorities have at times resulted in staff resources being directed to priorities other than title V backlogged permits.

#### **D. Resources and Internal Management Support**

##### Fees

DOEE title V fees were most recently updated in 2020<sup>4</sup>. DOEE's title V fee structure is described in 20 DCMR 305. DOEE charges application fees for initial and renewal applications based on potential to emit ranges for the facilities. DOEE also charges facility annual fees based on actual emissions ranges. However, DOEE does not charge fees for permit modifications. Title V fee income in DC is continuously tracked to ensure the title V program can be self-sustained as required by Clean Air Act.

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<sup>4</sup> <https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=20-3>

Most of title V fee expenditures in DC are in the form of personnel services (i.e. salaries). Staff track the hours that they spend on title V activities in spreadsheets. DOEE determines whether the fees collected are sufficient to support title V program by comparing staff charges to the Special Purpose Revenue (SPR) fund to the fee income over time. DOEE indicates its title V fee is sufficient to support the title V program after the fee restructure in 2020.

According to 40 CFR subpart 70.4 (i), “Program revision may be necessary when the relevant Federal or State statutes or regulations are modified or supplemented. The State shall keep EPA apprised of any proposed modifications to its basic statutory or regulatory authority or procedures.” DOEE is recommended to submit a title V program revision for the 2020 rulemaking on fee restructuring and changes implemented.

### Staffing

The DOEE Permitting Branch is staffed with a total of five staff members and one manager. However, these positions are not exclusively to support the title V program. These positions also support the District’s minor source preconstruction and operation permitting program and the Environmental Impact Screening Form (EISF) review process. Of the five staff members, the three more senior staff focus more of their efforts on title V permitting, though still typically less than 20% of their total time, while the two more junior staff typically spend more of their time on minor source permits, database management, and EISF reviews. DOEE believes that it has adequate staff for the title V program needs, though additional staff resources would help to reduce the permit backlog more quickly.

### Permit Tracking Systems

DOEE has been trying to improve and streamline the permit tracking systems in recent years. DOEE currently has three tracking systems for title V permitting. The “Quickbase” database tracks the status of each title V permitting action and where the permit is in its issuance cycle. This database includes historic permits and tracks key dates such as application date, the date each major step in the permit issuance process occurs, permit issuance dates, renewal application due dates, and expiration dates. The second system is an Excel spreadsheet-based system which can show status of each permit toward issuance and permit backlog status. A third system is DOEE’s new online permit application submission system and it also serves as a file repository. Applications submitted since October 2021 are stored in this system and can be accessed easily. DOEE is planning to streamline the three tracking systems into one or two systems in FY 24.

### Training

DOEE actively participates in several training programs for new and existing staff. A new employee guide document is provided for all new department employees. Staff are regularly encouraged to take trainings that will help them enhance their knowledge. DOEE relies substantially on MARAMA’s training efforts in developing permit writers. DOEE continues to give MARAMA feedback on their department training needs. The District Government also has extensive training programs for topics such as ethics, government finance, technical training (such as for computer software), personal wellness, leadership, and other topics.

An individual development plan is developed for each staff member as part of employee performance planning each year. This plan is developed by the supervisor, with input from the staff member. Progress toward the goals in that plan is tracked throughout the year. EPA recognized this as good practice in helping DOEE develop and retain staff.

#### **IV. Conclusions**

EPA would like to thank DOEE for its responsiveness and cooperation throughout the evaluation process.

Below is a summary of EPA evaluation findings in terms of both best practices and areas for improvement. To begin addressing identified areas for improvement, DOEE will follow the actions identified in the “action plan” that follows. Though areas for improvement are identified in this report, they do not amount to a determination of a finding of deficiency.

EPA would like to acknowledge that DOEE implemented program changes to address EPA’s suggested program improvements from the 2016 title V evaluation. DOEE developed a SOP for the title V permitting process and restructured the permit fee program. These changes likely result in improvement in permit programs implementation and more efficient title V processing at DOEE.

#### **A. Summary of Best Practices**

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

##### Electronic Permit Submittals

DOEE introduced a new online permit application submission system in October 2021. The system helps both the applicants and permit writers to streamline the permit application process and improve DOEE’s permitting efficiency.

##### Prenotification of Draft Permits

The prenotification draft practice in DC helps to improve the draft permit and address potential issues in the early stage and could lead to an overall more efficient permit process.

##### Public Outreach

DOEE is enhancing public involvement throughout the permitting process by informing area neighborhood commissioners of permitting actions within their communities, when environmental justice issues have been identified or are suspected in the community. This best practice helps ensure meaningful involvement within the permitting process and allows communities to be more aware of the air permitting actions that may affect the community.

##### Synthetic Minor Permitting Program

DC established its synthetic minor permitting program in 2020. This will likely help improve the permitting program efficiency and help reduce the title V permit backlog issue.

### Title V Permit SOP

DOEE developed a SOP for its' title V permit program. EPA believes the SOP would help permit applicants better understand the permitting process and requirements, and this in turn will help permit writers develop the permit more efficiently and thus improve title V permits processing. A SOP will also help preserve institutional knowledge regarding these processes and policies.

## **B. Areas for Improvement**

### Permit Backlog

DOEE has a backlog of 42% of their title V permit universe. This has remained relatively steady over the recent years. DOEE's struggle to reduce their permits backlog requires attention. This backlog needs to be reduced, but focus should remain on permits with more significant environmental impacts.

DOEE has identified some inefficiencies within their data management systems. Permitting staff spending extra time in data management expends resource so there is less time available to work on title V permits.

### Title V program improvements

DOEE has worked towards improving their title V permitting program by implementing a synthetic minor permit program. Portions of the synthetic minor regulations are not yet federally enforceable as it has not been approved into the state implementation plan (SIP). Similarly, the D.C. title V fee program update has not yet been submitted for EPA review and possible approval.

## **C. Action Plan**

### Title V Program Revision

40 CFR subpart 70.4 (i) stipulates whether and when a title V program revision is required. DOEE should submit the June 5, 2020, final rulemaking on air quality permit fees adopted in DC to EPA as a title V program revision for EPA review and approval. This action should be submitted no later than 12 months after this report is published.

### SIP Revision

On June 5, 2020, a final rulemaking in DC established a synthetic minor permitting program. For the program and associated permit conditions to be federally enforceable, DOEE should submit a SIP revision to EPA for review and possible approval into DC's SIP. This action should be submitted no later than 12 months after this report is published.

### Permit Backlog Prioritization

EPA and DOEE will collaboratively prioritize permits to be worked on during regularly scheduled meetings. EPA believe this will help DOEE focus on the permits with the most significance and impact to the people of the District while balancing the need to reduce the backlog. EPA and DOEE will begin this action during the subsequent meeting after this report is published.

### Database Management

DOEE will evaluate their current data management systems and implement changes to streamline the systems and increase the efficiency. Within 6 months of this report being published, DOEE will report back to EPA on their evaluations. Within 12 months DOEE will address any issues or inefficiencies found within their data management system. If additional time is required to make the necessary changes to database systems, this will be communicated to EPA and a revised schedule will be developed jointly by the agencies.

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# Appendix A

## FY 2023 DC DOEE Title V Program Evaluation Questionnaire

### A. Title V Permit Preparation and Content

1. Please describe the permit development process, from receipt of an application to final issuance.
2. Please describe efforts DOEE has made over the last five years to improve the efficiency of internal processes for issuing title V permits: revisions of internal procedures and policies, standard operating procedures, etc.
3. Please describe any quality assurance processes for title V permits.
4. Please describe the process for developing monitoring requirements within title V permits.

### B. Public Participation and Outreach

1. Please describe the process for public participation from receipt of an application to final permit issuance.
2. When are hearings held? How does DOEE decide whether or not to hold a hearing?
3. Please describe how DOEE interacts and engages with the public when comments are made.
4. How does DOEE engage with environmental justice communities as related to title V permit issuance?

### C. Permit Issuance

1. Please provide title V issuance and backlog data for the district. Please provide data for title V operating permits and significant modifications.
2. According to DOEE's Title V Operating Permit System (TOPS) reports, over the last 5 years the renewal backlog has remained relatively steady above the average for EPA Region 3 permitting authorities. How has the district addressed title v permit backlogs through time? What factors cause delays? What factors prevent the remaining permits from being issued?
3. Do any of the following impact ability to issue timely title V permits (initial or renewal)? If so, please describe how.

D. SIP gap/backlog

E. Pending revisions to underlying NSR/PSD permits

- F. Compliance/enforcement issues
- G. EPA rulemaking
- H. Lack of EPA guidance
- I. Competing internal priorities
- J. Other (please specify)

1. Please describe the permit appeals process. How often are TV permits appealed? Does DOEE have a process to inform EPA when permits are appealed?

**D. Resources and Internal Management Support**

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?
  2. Please describe current staffing levels. Are staffing levels sufficient in relation to title V permitting workload? What is the process for determining sufficient staffing?
  3. Title V Fees
    - a. Please describe your title V fee structure.
    - b. How does DOEE track title V fee usage and ensure that title V fees are used in accordance with 40 CFR Part 70 fee requirements?
    - c. Are collected fees adequate to fund title V activities?
    - d. Describe any recent activities DOEE taken to ensure title V fees are adequate.
- A.1. Please describe the process for ensuring new and current permit writers have access to adequate training.

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# Appendix B

## FY 2023 DC DOEE Title V Program Evaluation Questionnaire

### A. Title V Permit Preparation and Content

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

Please see the attached Title V Standard Operating Procedures (SOP), which details the entire Title V permitting process.

2. Please describe efforts DOEE has made over the last five years to improve the efficiency of internal processes for issuing title V permits: revisions of internal procedures and policies, standard operating procedures, etc.

DOEE has added an additional staff position to the Permitting Branch. While this position does not focus primarily on Title V, it provides some support (primarily administrative at this time but will likely provide more permitting support in the future as the staff member receives further training) and eases conflicting internal priorities.

DOEE has switched to online/electronic permit application submissions, which has improved file sharing abilities and reduces time searching for documents.

DOEE has established a central location for template language for certain sections of the permit rather than relying on use of recently issued permits as templates.

The number of permit tracking systems for Title V permits was reduced from four tracking systems in 2017 to two systems, but subsequently increased to three tracking systems with the issuance of the online application system. Plans are in place to consolidate to one/two tracking system/s in FY 24.

3. Please describe any quality assurance processes for title V permits.

All Title V permits are thoroughly reviewed by the branch chief before issuance in prenotification draft form. The prenotification draft process then gives the permit applicant, EPA, and the Compliance and Enforcement Branch the opportunity to review the documentation before issuance of the formal draft permit. Any changes from the prenotification draft to the formal draft, as well as any changes from the formal draft to the final permit are thoroughly reviewed by the branch chief.

4. Please describe the process for developing monitoring requirements within title V permits.

Most monitoring requirements are collected from applicable regulations or previously issued Chapter 2 or Title V permits. However, monitoring requirements are reviewed at initial issuance as well as renewal to ensure that there is a monitoring requirement that matches up with each operational limit (and, in some cases, emissions limits) to ensure that compliance with each of these limits can be determined based on the required monitoring.

When new monitoring requirements are developed, they are often developed in consultation with the applicant to ensure that the requirements can be reasonably implemented at the facility.

While 40 CFR 64, Compliance Assurance Monitoring (CAM) is seldom applicable to sources in the District, DOEE always considers its potential applicability when developing monitoring requirements. When applicable, or when applicability is in question, but determined to not be applicable, the evaluation is documented in the Fact Sheet and Statement of Basis supporting the Title V permit.

## **B. Public Participation and Outreach**

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

See section 4.17 through 4.22 of the attached Title V SOP.

Public participation is an integral part of DOEE's permitting process. DOEE has recently begun implementing procedures to notify local elected officials (Area Neighborhood Commissioners (ANCs)) when draft permits are being proposed in their neighborhoods if environmental justice concerns are apparent in the area.

DOEE is very open to extending public comment periods when requested and holds public hearings upon request. Any comments received are addressed assiduously.

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

DOEE seldom schedules hearings at the outset of the public comment period but does on occasion when a permit is expected to be controversial in some way. In most cases, hearings are held only when requested. Any hearing is held only after a 30-day notification of the date, time, and location of the hearing. While DOEE reserves the right to refuse a request for a hearing if requested for non-substantive reasons, in practice, DOEE has historically held hearings whenever requested.

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

When comments are received, they are collected and copied (typically for written comments) or summarized (typically for verbal comments made in a hearing and taken from the hearing transcript or recording). They are recorded in a comment response memorandum. Each comment is addressed in turn. When final action on the permit is taken, the comment response memorandum is posted on the DOEE website along with the final permit action.

4. How does DOEE engage with environmental justice communities as related to title V permit issuance?

As noted above, DOEE's primary point of contact with local communities are the District's ANCs. At this time, the Air Quality Division (AQD) reviews EJ Screen to identify potential EJ

communities, where it is not already known that a community would be considered as such. Note that DOEE does not currently have hard thresholds for what constitutes an EJ community, but is working on a regulation that will assist in that determination in the future.

When the community is identified, at this time the main approach to increased engagement is to email the ANC for the local area (or multiple ANCs if the facility is located near communities represented by different ANCs). Additionally, when there are active community members or other known concerned residents in those areas, these people are also often contacted. In some instances, a public hearing may be proactively scheduled at the time the draft permit is issued.

### C. Permit Issuance

1. Please provide title V issuance and backlog data for the district. Please provide data for title V operating permits and significant modifications.

There are a total of 31 initial/renewal/significant modification Title V applications pending. Of these, 20 are for initial permits or permit renewals. The remaining 11 are requests for significant permit modifications.

It should be noted that, of the 20 initial/renewal permits pending, 4 also have synthetic minor permit applications pending. Once the synthetic minor permits are processed, these four Title V applications are expected to be closed without Title V issuance.

Regarding significant permit modifications, 6 of the 11 are for modifications to permits that have pending renewal and/or synthetic minor applications as well. In those cases, the modifications and renewals/synthetic minors will be processed simultaneously.

2. According to DOEE's Title V Operating Permit System (TOPS) reports, over the last 5 years the renewal backlog has remained relatively steady above the average for EPA Region 3 permitting authorities. How has the district addressed title v permit backlogs through time? What factors cause delays? What factors prevent the remaining permits from being issued?

As noted, the Title V backlog has remained fairly steady for a number of years.

DOEE has taken several actions to invest in reducing the backlog, including:

- a. Development of a synthetic minor program that, once fully running will be expected to reduce the overall universe of Title V facilities substantially; and
- b. Increasing Title V fees allowing more financial resources to go to the program (effective June 2020).

There are several reasons the backlog has not substantially decreased during recent years:

- a. Identification of new facilities.

- b. Implementation of the “new” synthetic minor program causing temporary delays in processing certain permits (though, over time, this program should reduce processing time).
- c. Focus, during recent years, on addressing some of the oldest, most complicated Title V permits pending. In previous years, the focus had been on reducing the total backlog number, which involved processing the easier permits first. **During the last few years, we have worked on more complicated permitting actions. DOEE has processed some of these complicated permits, like the permit for the U.S. Government Publishing Office (GPO), and continued processing of other complicated permits, like the permit for DC Water’s Blue Plains Wastewater Treatment Plant. Thus, DOEE has processed fewer, but more complex permits.**
- d. Over the last couple of years, DOEE has focused more on Environmental justice concerns and has therefore delayed work on several permits to better address the concerns of overburdened communities. This has involved developing new procedures for addressing these concerns, which has, in turn, delayed those permits. Additionally, as with development of the synthetic minor program, development and implementation of new procedures takes time and resources away from day-to-day permit processing resources.
- e. Staffing challenges have also affected Title V permitting efforts. One key position dedicated, in part, to processing backlogged Title V permits, was vacant for a year (December 2021 – December 2022) as we tried to fill it. During that time, the branch chief also had to cover other (non-Title V) work of that position, which reduced program management resources for that period. Fortunately, that position was filled in December 2022.

**Remaining challenges:**

Many of the pending permits, including all the oldest permits, have individual circumstances that are delaying their issuance. These specific circumstances include regulatory challenges (e.g., NOx RACT revisions and determining case-by-case RACT), equipment changes at the facilities, facility staffing changes (new staff not being able to answer questions or discovering errors made by their predecessors), inaccurate information being discovered in applications, facility non-compliance issues needing resolution, environmental justice issues, and others. Some permits in the backlog are simpler to address but have not had the primary focus over the last few years as we try to focus on addressing some of the oldest, most complicated permits.

3. Do any of the following impact ability to issue timely title V permits (initial or renewal)? If so, please describe how.

**D. SIP gap/backlog**

In most cases, no. However, SSM SIP call issues have delayed the Georgetown University Title V permit due to lack of clarity of how the eventual visible emissions rule will look and what the facility must do to comply with it. This issue

has also contributed to delays with the General Services Administration – Central Heating and Refrigeration Plant permit.

E. Pending revisions to underlying NSR/PSD permits

No (though pending revisions to underlying Chapter 2 permits and associated facility construction/modification projects often cause such delays).

F. Compliance/enforcement issues

Yes. A common issue we have encountered in recent years has been a series of stack test failures at various facilities. These violations typically need to be resolved, either by determining that the emission limit was not appropriate for some reason, or by requiring the facility to make changes to the facility to comply (such as installation of low NOx burners). Resolution of these issues can take extensive effort and time. Often, they result in permits to construct being issued and a period where the applicant cannot comply with current emission limits, but it does not make sense for DOEE to renew the Title V permit without incorporating the changes resulting from pending construction.

G. EPA rulemaking

No

H. Lack of EPA guidance

No

I. Competing internal priorities

Yes. As mentioned previously, due to a temporary staffing shortage within the Permitting Branch, the branch chief was obliged to place additional focus on non-Title V programs for an extended period, which reduced his focus on Title V permitting issues. In addition, several efforts to reform permitting programs (billing, collection of Certificates of Clean Hands, database development, EJ program development, etc.), while ultimately expected to benefit the program, contributed to the challenge of addressing outstanding applications.

J. Other (please specify)

Challenges with implementing NOx RACT have delayed processing of a number of permits in the last two years. Three facilities with older pending permit applications have alternate NOx RACT proposals pending that require resolution prior to Title V issuance. Additionally, several other facilities plan to install low NOx burners to address NOx RACT, thus requiring preconstruction permits and equipment changes at the facility, which can delay Title V permitting processes.

1. Please describe the permit appeals process. How often are TV permits appealed? Does DOEE have a process to inform EPA when permits are appealed?

The permit appeals process to EPA is laid out in 20 DCMR 304.4 and is based on the Part 70 appeals process.

Alternatively, “Any person adversely affected by an action of the Department” has the right to appeal pursuant to 20 DCMR 107. This section is primarily focused on enforcement appeals but could be applied to permitting appeals as well. It involves appealing a decision to

the District's Office of Administrative Hearings (OAH). Note that decisions of the Administrative Law Judges within OAH are appealable to the judicial courts. DOEE would notify the permitting contact at EPA Region 3 promptly upon receipt of an appeal of a Title V permit. However, no one has submitted a permit appeal under either of these approaches in many years, if ever.

#### **D. Resources and Internal Management Support**

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?

DOEE has two main tracking systems for Title V permitting. The first is a Quickbase database that evolved from an earlier Access database. The Quickbase database tracks the status of each Title V permitting action and where the permit is in its issuance cycle. This database includes historic permits and includes key dates such as application date, the date each major step in the permit issuance process occurs, permit issuance dates, renewal application due dates, and expiration dates.

The second system is an Excel spreadsheet-based system that was developed in conjunction with EPA to facilitate regular conversations on the status of the permitting program. The key value of this system is to show a quick status of the permit backlog and the status of each permit toward issuance.

A third system, also a Quickbase database, has been in use since October 2021. This system is not used for overall Title V program tracking but is our online permit application submission system and file repository. Applications submitted since October 2021 are contained in that system and can be accessed easily.

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

The Permitting Branch is staffed with a total of five staff members and one manager. However, these positions are not exclusively to support the Title V program. These positions also support the District's minor source preconstruction and operation permitting program (Chapter 2) and the Environmental Impact Screening Form (EISF) review process<sup>5</sup>

Of the five staff members, the three more senior staff focus more of their efforts on Title V permitting, though still typically less than 20% of their total time, while the two more junior staff typically spend more of their time on minor source permits, database management, and EISF reviews. More junior permit writers are typically gradually trained to take on more complex permitting work, culminating in some Title V responsibilities.

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<sup>5</sup> The EISF process is a District program that is somewhat based on the NEPA review process. Applicants must demonstrate that their proposed development projects (including related traffic and parking operations) will not cause a significant impact to air quality or the District's attainment of the NAAQSs.

AQD believes that we have adequate staff positions at this time to address Title V program needs, though additional staff resources would help to reduce the permit backlog more quickly. As noted above, the backlog has remained approximately steady for several years, during which time several of the oldest, most complicated permits have been re-written. This included a year when the program was short-staffed.

### 3. Title V Fees

- a. Please describe your title V fee structure.

DOEE's Title V fee structure is described in [20 DCMR 305](#) (At the link, click on "View text"). In summary, we charge application fees for initial and renewal applications, but not permit modifications. These fees are based on potential to emit ranges for the facilities. We also charge annual fees based on actual emissions ranges. Synthetic minor permits are also considered to be part of the Title V program for fee assessment purposes.

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

Most Title V fee expenditures are in the form of personnel services (PS) (i.e. salaries). Staff track the hours that they spend on Title V activities in spreadsheets. Fee income (along with other allowable income such as Title V enforcement income) are tracked as well. AQD is able to compare staff charges to the Special Purpose Revenue (SPR) fund to the income over time. After appropriate salary percentages are covered in the budget, additional funds may be budgeted for non-personnel services (NPS) in categories allowable under 42 U.S.C. §7661a(b)(3)(A).

- c. Are collected fees adequate to fund title V activities?

Yes. The fees were most recently updated in 2020 and are now sufficient to support the Title V program.

- d. Describe any recent activities DOEE taken to ensure title V fees are adequate.

The fees were most recently updated in 2020 and are now sufficient to support the Title V program.

- A.1. Please describe the process for ensuring new and current permit writers have access to adequate training.

DOEE actively participates in numerous training programs. We rely substantially on MARAMA's training efforts and participate in their training surveys and plan development process. When staff identify training needs, or needs are identified by management, appropriate training is sought. Staff are encouraged to seek professional engineering certification.

The District Government also has extensive training programs that are offered (and in some cases, required) for topics such as ethics, government finance, technical training (such as for

computer software), personal wellness, leadership, and many other topics. Staff are regularly encouraged to take training that will help them grow.

Each year, as part of employee performance planning, an individual development plan is developed for each staff member. This plan is developed by the supervisor, with input from the staff member. Progress to

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# Appendix C



The Permitting Branch of the Air Quality Division (AQD) of the District of Columbia Department of Energy and Environment (the Department) is responsible for issuing permits pursuant to Chapter 3 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR Chapter 3). This regulation has been adopted pursuant to the District of Columbia Air Pollution Control Act of 1984 (as amended), D.C. Code § 8-101.5. It is the District's implementation of Title 40, Part 70 of the Code of Federal Regulations ([40 C.F.R. Part 70](#)). The U.S. Environmental Protection Agency (EPA) granted the District full approval to issue permits pursuant to 20 DCMR Chapter 3 to meet the requirements of 40 C.F.R. Part 70 ([68 FR 18548](#), April 16, 2003).

Permits issued pursuant to this program, commonly referred to as "Title V permits" (in reference to Title V of the federal Clean Air Act, under which the program was originally established), are intended to be a single repository of all air quality regulatory requirements (both federal and District) applicable to a "major stationary source" of air pollutants<sup>1</sup>, and are thus referred to as "facility-wide" air quality permits. These permits are written to be "enforceable as a practical matter" and most conditions of these permits are federally enforceable as well as enforceable by the District.

This procedure outlines the general procedures used by AQD to implement the program. Additional details are found in the implementing regulations found in 20 DCMR Chapter 3.

## **1.0 Definitions**

For relevant defined terms, see 20 DCMR § 199 and 20 DCMR § 399.

## **2.0 Applicability**

The applicability of this permitting program is specified in 20 DCMR § 300 which defines what facilities and air pollutant sources are subject to permitting under 20 DCMR Chapter 3 in detail.

## **3.0 Permit Application Procedures**

This section describes procedures related to permit application format, submission, receipt, and completeness review.

- 3.1 The timing of application by a source subject to this program is specified in detail in 20 DCMR § 301.0(a). In most cases, an application is due within twelve (12) months of the program becoming applicable to the source. Applications for renewal of an existing permit must be submitted at least six (6) months before the date of permit expiration, unless a longer period (not to exceed eighteen (18) months) is specified in the permit.

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<sup>1</sup> Note that in certain, less common, circumstances, these permits may apply to non-major stationary sources or multiple permits may be issued to a single major stationary source.

- 3.2 AQD maintains [application forms](#) on the Department's website. These applications shall be used by the applicant, as applicable, as a default for any application pursuant to 20 DCMR §301.4. On a case-by-case basis, AQD may request or allow variations from these forms where an alternate presentation of relevant data will be more efficient or effective for permit processing purposes. In addition to the application forms, the applicant must submit a Certificate of Clean Hands (where applicable) with the application. See SOP # OEEJ-610.
- 3.3 Pursuant to 20 DCMR 301.1(b)(6) AQD maintains a [checklist](#) on the Department's website for use by applicants and AQD for determining whether a permit application is complete.
- 3.4 Applicants are directed to submit all applications in electronic form via the Department's permit [application submission system](#) found on the Department's website.
- 3.5 Pursuant to 20 DCMR 301.1(b)(1) AQD will notify each applicant within five (5) days of receipt of an application of the date on which the application was received and the date on which the application will automatically be "deemed" complete unless the Department determines otherwise. At the time of this writing, this is done by email, but AQD may update the application submission system to provide this notice automatically.
- 3.6 When an application is received, within five (5) business days of receipt, an invoice for appropriate application fees (see 20 DCMR § 305 for the fee schedule) is issued to the applicant by email by an assigned Permitting Branch team member. Fees may be paid by credit card or check. If an applicant is unable to pay by one of these methods, alternate methods may be implemented in cooperation with the Department's Office of the Chief Financial Officer (OCFO).
- 3.7 An application is not considered complete until a fee payment has been received.
  - 3.7.1 If fee payment is received by credit card payment, this is entered into the permit application database by the assigned Permitting Branch team member handling payments.
  - 3.7.2 If fee payment is received by check, the check is directed to the AQD administrative assistant for deposit. Receipt is entered into the permit application database by the assigned Permitting Branch team member handling payments.
- 3.8 Once an application is received and payment made, the Permitting Branch Chief assigns the permit application to a staff member for review and processing. The goal timeline for assignment is one (1) week.
- 3.9 Once a permit application has been assigned to a Permitting Branch team member (the designated "permit writer"), the permit writer reviews the application for completeness using the completeness determination checklist (see step 3.3) and prepares a letter to notify the applicant if it is complete or, if there are deficiencies, identifying those deficiencies.
  - 3.9.1 This letter must be issued to the applicant no later than sixty (60) calendar days from receipt of the application (including fee payment). See 20 DCMR § 301.1(b)(2).

- 3.9.2 The permit writer should coordinate with the Permitting Branch Chief to ensure that the letter will be issued prior to the sixty (60) day deadline specified in 20 DCMR § 301.1(b)(2) to ensure that the permit application is not automatically “deemed” complete. Absent other direction, the permit writer should submit the draft letter to the Permitting Branch Chief for review at least five (5) days before the sixty (60) day deadline.
- 3.9.3 The draft completeness letter is subject to Permitting Branch Chief review and approval and is to be issued by the Permitting Branch Chief prior to the sixty (60) day deadline.
- 3.9.4 Pursuant to 20 DCMR § 301.1(b)(5), if the Department does not notify the applicant within 60 days of receipt of the permit application (including fee payment) that the application is incomplete, the application shall be automatically “deemed” complete, however, this action does not prevent the Department from requesting additional information in writing that is necessary to process the application.
- 3.10 Pursuant to 20 DCMR § 301.1(b)(7), if, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request the additional information in writing and shall establish a reasonable deadline for a response
- 3.11 Pursuant to 20 DCMR § 301.2, an applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of the failure or incorrect submittal, promptly submit the supplementary facts or corrected information.

#### **4.0 Permit Processing Procedures**

This section includes a summary of the procedures followed when developing and issuing an initial or renewal Title V permit and associated documents. Requirements vary for administrative amendments and minor and significant permit modifications. See 20 DCMR §§ 303.4 and 303.5. *Note that any step assigned to the Permit Writer or Staff Assistant may also be performed by the Permitting Branch Chief at the Branch Chief's discretion.*

- 4.1 Upon determination that an application is complete, the permit writer will develop a first draft of the permit (with transmittal cover letter) in accordance with AQD's standard permit format and including all of the information specified in 20 DCMR § 302. This first draft is referred to as the “Prenotification Draft” permit and will be designated as such in the document, including a watermark.
- 4.2. The Prenotification Draft permit must be written so that the conditions of the permit are “enforceable as a practical matter” as defined at 20 DCMR § 199.
- 4.3 In addition to the draft permit, the permit writer will develop a “Fact Sheet and Statement of Basis” pursuant to 20 DCMR § 303.1(c) and 40 C.F.R. § 70.7(a)(5), following AQD's standard template. This document will be labeled with a “Draft” watermark. The document must include the following:

- 4.3.1 The identity of the applicant and Permittee;
  - 4.3.2 The facility location;
  - 4.3.3 A description of the facility and a review of the relevant background history of the permit;
  - 4.3.4 A list identifying and providing relevant details of the equipment subject to the permit;
  - 4.3.5 A summary of the “potential to emit” of the facility (as defined in 20 DCMR § 199);
  - 4.3.6 An explanation of why 20 DCMR Chapter 3 (Title V) applies to the facility;
  - 4.3.7 The legal and factual basis for the draft permit conditions, including a regulatory review;
  - 4.3.8 A recent compliance history of the source, covering at least the most recent three years;
  - 4.3.9 A description of the comment period to which the formal draft permit will be subject, including a description of the procedure for requesting a public hearing (if one is not being scheduled proactively); and
  - 4.3.10 A point of contact for inquiries (typically the permit writer).
- 4.4 The Permit Writer will develop a draft public notice meeting the requirements of 20 DCMR § 303.10(a)(1)(B) and as applicable, 20 DCMR § 210.
  - 4.5 Once drafting is complete, the Permit Writer submits the Prenotification Draft permit, the Fact Sheet and Statement of Basis, and the draft public notice to the Permitting Branch Chief for review.
  - 4.6 Once approved by the Permitting Branch Chief, the Prenotification Draft permit (with transmittal cover letter) and the Fact Sheet and Statement of Basis (but not the draft public notice) will be issued as follows:
    - 4.6.1 The Permitting Branch Chief will sign the transmittal cover letter, but the Prenotification Draft permit and the Draft Fact Sheet and Statement of Basis will remain un-signed;
    - 4.6.2 The transmittal cover letter will designate a reasonable time for the applicant to review the package (usually between 15 and 30 days, depending upon the complexity of the permit);
    - 4.6.3 The Staff Assistant will send the original, signed hard copy of the package to the applicant’s responsible official (as defined in 20 DCMR § 399) via postal mail;
    - 4.6.4 The Permitting Branch Chief will send an electronic copy of the signed package to the applicant’s responsible official as well as any appropriate other applicant contacts, typically including environmental program contacts and/or consultants for the applicant who have been involved in the permitting effort;

- 4.6.5 The Permitting Branch Chief will send an electronic copy of the package (signed and unsigned versions) to the permit program contact at the Region 3 office of the U.S. Environmental Protection Agency (EPA), who will also be given the opportunity to review the package;
- 4.6.6 The Permitting Branch Chief will send an electronic copy of the package (signed and unsigned versions) to AQD's Compliance and Enforcement Branch Chief and any appropriate inspectors as notice and to solicit comment; and
- 4.6.6 The AQD Staff Assistant will log the documents into the [AQD mail tracking system](#) as required for outgoing documents and will save the signed documents on the AQD network drive.
- 4.6.7 The Permitting Branch Chief will update the [Title V Permit Tracking Quickbase Database](#) and the [Title V permit tracking spreadsheet used for EPA coordination](#).
- 4.7 The Permitting Branch Chief may grant a reasonable extension of the review period, if requested by the applicant or EPA.
- 4.8 Upon conclusion of the review period, the permit writer will consider any comments received and prepare a draft Comment Reconciliation Memorandum along with a revised permit and Fact Sheet and Statement of Basis with tracked changes showing any changes made pursuant to the comments. **If no comments are received, skip to Step 4.14.**
- 4.9 Once complete, the draft Comment Reconciliation Memorandum will be submitted to the Permitting Branch Chief for approval.
- 4.10 As appropriate, during the development and review of the Comment Reconciliation Memorandum, the Permitting Branch Chief and/or permit writer will consult with the assigned attorney from DOEE's Office of General Counsel (OGC) to obtain relevant legal advice.
- 4.11 Once the Permitting Branch Chief has determined that the Comment Reconciliation Memorandum is acceptable, one of the following actions will be implemented:
  - 4.11.1 If the comments were all non-controversial, the permit writer and Permitting Branch Chief will sign the Comment Reconciliation Memorandum and proceed to Step 4.13; or
  - 4.11.2 If one or more of the comments were controversial, and came from the applicant, the Permit Writer and Permitting Branch Chief will meet with the applicant to discuss the response and attempt to come to a consensus when possible, but at a minimum, explain AQD's position.
  - 4.11.3 If one or more of the comments were controversial, and came from EPA, the Permitting Branch Chief will meet with the EPA permitting contact to discuss and attempt to come to a consensus. If consensus is not reached, the Permitting Branch Chief will consult with the assigned attorney from OGC to obtain relevant legal advice on next steps.

- 4.12 Upon completion of Step 4.11, if consensus is not reached with respect to resolution of comments, the Permitting Branch Chief will consult with the assigned attorney from OGC to obtain relevant legal advice and/or higher levels of DOEE management for guidance on next steps.
- 4.13 Once the Permitting Branch Chief makes a final decision on responses to comments, the Permit Writer and the Permitting Branch Chief will finalize and sign Comment Reconciliation Memorandum.
- 4.14 Once all comments on the Prenotification Draft permit and draft Fact Sheet and Statement of Basis have been addressed, or if there were no comments, the Permit Writer will complete the following:
  - 4.14.1 The Prenotification Draft permit will be converted to a formal Draft permit, using the AQD template;
  - 4.14.2 A transmittal cover letter directed to the applicant's responsible official will be developed;
  - 4.14.2 The draft Fact Sheet and Statement of Basis will be converted to a final version;
  - 4.14.3 The draft public notice will be updated and finalized; and
  - 4.14.4 These documents will be transmitted to the Permitting Branch Chief for review.
- 4.15 When the formal Draft permit, cover letter, Fact Sheet and Statement of Basis, and updated public notice has been approved by the Permitting Branch Chief, the Permit Writer will sign the Fact Sheet and Statement of Basis and the Permitting Branch Chief will sign both the Fact Sheet and Statement of Basis and the transmittal cover letter. The draft permit will remain unsigned.
- 4.16 The AQD Staff Assistant will log the documents (except the public notice) into the [AQD mail tracking system](#) as required for outgoing documents and will save the signed documents on the AQD network drive.
- 4.17 The formal Draft permit will be issued as follows:
  - 4.17.1 The public notice, soliciting comment over a 30-day period, will be uploaded by the Permitting Branch Chief to the D.C. Register website for publication on the next available Friday publication date.
  - 4.17.2 The Permitting Branch Chief will email the public notice and copies of the Draft permit and the Fact Sheet and Statement of Basis to DOEE's webmaster for publication on the same date as the D.C. Register publication. The webmaster will post the public notice on the webpage and link copies of the documents to that posting.
  - 4.17.3 The original Fact Sheet and Statement of Basis will be stored in the hard copy Title V file, unless the document is signed electronically.

- 4.17.4 The AQD Staff Assistant will mail the original transmittal cover letter and draft permit, along with a copy of the Fact Sheet and Statement of Basis and a copy of any Comment Reconciliation Memorandum to the applicant's responsible official via postal mail.
- 4.17.5 The Permitting Branch Chief will email electronic copies of the transmittal cover letter, draft permit, Fact Sheet and Statement of Basis, and any Comment Reconciliation Memorandum to the applicant's responsible official and copy any other appropriate applicant contacts such as any environmental program contacts or consultants on the same date as the D.C. Register publication, soliciting comment.
- 4.17.6 The Permitting Branch Chief will email electronic copies of the transmittal cover letter, draft permit, Fact Sheet and Statement of Basis, and any Comment Reconciliation Memorandum to the EPA Region 3 permitting program contact on the same date as the D.C. Register publication, soliciting comment.<sup>2</sup> See 20 DCMR § 304.1.
- 4.17.7 The Permitting Branch Chief will email state permit program contacts in Affected States, as defined in 20 DCMR § 399 (Maryland, Virginia, and West Virginia), a link to the website public notice, on the date of its posting, soliciting comment pursuant to 20 DCMR § 304.2(a).
- 4.17.8 The Permitting Branch Chief will email electronic notice of the public comment period to any person identified as an appropriate community contact pursuant to any environmental justice (EJ) review.
- 4.17.9 The Permitting Branch Chief will email an electronic copy of the package to AQD's Compliance and Enforcement Branch Chief and any appropriate inspectors as notice and to solicit comment.
- 4.17.10 The Permitting Branch Chief will update the [Title V Permit Tracking Quickbase Database](#) and the [Title V permit tracking spreadsheet used for EPA coordination](#).
- 4.18 If a request for a public hearing is received during the public comment period, AQD will typically grant the request, unless there is a strong reason for such denial. Any denial will only occur after consultation with OGC and upon the decision of upper levels of DOEE management (at least at the Deputy Director level). If a public hearing is granted, notice of the public hearing must be posted in the D.C. Register and on DOEE's website for a minimum of 30 days before the hearing occurs.

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<sup>2</sup> When implementing "concurrent review" procedures, the 30-day public comment period (during which EPA may also comment on the draft permit and associated Fact Sheet and Statement of Basis) runs concurrently with a 45-day review period during which EPA may object to issuance of a "proposed permit". The Draft permit is considered to be the "proposed permit" for this purpose unless substantive comments on the Draft permit are received. If substantive comments are received, a separate 45-day review period of a separately issued "proposed permit" is subsequently granted to EPA to object to issuance of the permit. This latter process is referred to as "sequential review".

- 4.19 If comments are received during the public comment period (or at any public hearing), all relevant comments must be addressed. The permit writer and/or the Permitting Branch Chief will develop a comment response memorandum to be signed by the permit writer (when relevant) and the Permitting Branch Chief. The Permitting Branch is encouraged to consult with the assigned OGC attorney on any complex or controversial issues arising from these comments.
- 4.20 If any comments are substantive, the comment reconciliation memorandum, along with a revised “proposed permit” will be sent electronically to the EPA Region 3 permitting program contact for review for a 45-day period during which EPA may object to issuance of the permit pursuant to 20 DCMR § 304.3. If EPA objects to this proposed permit, the procedures of 20 DCMR § 304.3 will be followed.
- 4.21 If no comments on the Draft permit are received, or if a decision is made to issue the permit following comment reconciliation and following the EPA 45-day review discussed above, AQD may issue a Final Title V permit. The Permit Writer and the Permitting Branch Chief will sign the Final Title V permit (per the [delegation of authority document](#)<sup>3</sup> issued by the Director of DOEE) and it will be issued as follows:
- 4.21.1 The AQD Staff Assistant will mail the original hard copy of the permit, a transmittal cover letter signed by the Permitting Branch Chief, and a copy of any relevant comment reconciliation memorandum, to the applicant’s responsible official;
- 4.21.2 The Permitting Branch Chief will email an electronic copy of the permit, a transmittal cover letter signed by the Permitting Branch Chief, and any relevant comment reconciliation memorandum to the applicant’s responsible official and any appropriate other applicant contacts such as an environmental program contact or consultant;
- 4.21.3 The Permitting Branch Chief will email an electronic copy of the permit, the transmittal cover letter signed by the Permitting Branch Chief, and any relevant comment reconciliation memorandum to the EPA Region 3 permit program contact;
- 4.21.4 The Permitting Branch Chief will email an electronic copy of the permit, the transmittal cover letter signed by the Permitting Branch Chief, and any relevant comment reconciliation memorandum to the AQD Compliance and Enforcement Branch Chief and any appropriate inspector;
- 4.21.5 The AQD Staff Assistant will upload electronic copies of all issued documents to the [AQD mail tracking system](#), the [Title V Permit Tracking Quickbase Database](#) (permit only), and the AQD network drive.

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<sup>3</sup> At the time of this writing, the January 29, 2010 [Delegation of Authorities – Air Quality](#) document remains in effect for delegations below the Deputy Director level except where it directly conflicts with the December 27, 2022 [Office Order on Department Organization, Line of Succession, and Delegation of Authorities](#). However, when new delegations below the Deputy Director level are issued, they will supersede this document.

4.21.6 The Permitting Branch Chief will update the [Title V Permit Tracking Quickbase Database](#) and the [Title V permit tracking spreadsheet used for EPA coordination](#).

4.22 If EPA does not object to the proposed permit during the applicable 45-day review period, any person that meets the requirements specified in 20 DCMR § 304.4 may petition the EPA Administrator pursuant to that section, in which case the procedures of that section will be followed.

## 5.0 Timelines

5.1 Under 20 DCMR § 303.1(i) AQD shall take final action on most initial and renewal permit applications within 18 months of receiving the application. AQD strives to meet this deadline. Other timelines for administrative amendments and minor and significant permit modifications are specified in 20 DCMR § 303.

## 6.0 Reference Documents and Resources

6.1 [Federal Implementing Regulations of Title V Program 40 C.F.R. Part 70](#)

6.2 [District of Columbia Title V Program Approval](#)

6.3 [Air Quality Regulations](#)

6.4 [Title V Application Forms](#)

6.5 [Title V Application Completeness Checklist](#)

6.6 [Online Permit Application System](#)

6.7 [Air Quality Program Delegation of Authority Document<sup>4</sup>](#)

6.8 [Title V Permit Tracking Quickbase Database](#)

6.9 [Title V Permit Tracking Spreadsheet for EPA Coordination](#)

6.10 [AQD mail tracking system](#)

## 7.0 Document History

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<sup>4</sup> At the time of this writing, the January 29, 2010 [Delegation of Authorities – Air Quality](#) document remains in effect for delegations below the Deputy Director level except where it directly conflicts with the December 27, 2022 [Office Order on Department Organization, Line of Succession, and Delegation of Authorities](#). However, when new delegations below the Deputy Director level are issued, they will supersede this document.

<u>Revision #</u>	<u>Revision Date</u>	<u>Revision Summary</u>	<u>Author Name/Program Manager</u>
000	4/27/2023	Initial Release	Stephen S. Ours

Clean Air Act Title V Program Evaluation Report  
Department of Energy and Environment – FY2023

# Appendix D

**AIR QUALITY MANAGEMENT**

**TITLE V  
OPERATING PERMITS PROGRAM**

**and**

**AIR COMPLIANCE PROGRAM**

**MEMORANDUM of UNDERSTANDING  
BETWEEN THE  
DISTRICT of COLUMBIA  
AIR QUALITY DIVISION  
AND  
U.S. EPA - REGION 3  
AIR PROTECTION DIVISION**

**October 2005**

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MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
DISTRICT OF COLUMBIA  
AIR QUALITY DIVISION  
AND  
U.S. EPA - REGION 3  
AIR PROTECTION DIVISION

I. GENERAL POLICY STATEMENT:

- A. Over the coming years we will continue to work closely with our state and local agency partners to sharpen our focus on achieving measurable environmental results. This MOU is designed, in part, to help achieve two of the **five** goals presented in **EPA's** 2003 Strategic Plan - namely, Goal 1, Clean Air and Global Climate Change and Goal 5, Compliance and Environmental Stewardship as those goals apply to criteria and **hazardous** air pollutants for ambient air.
- B. This Memorandum of Understanding (hereinafter "MOU") defines **policies**, procedures, and responsibilities by which the operating permits program, and the air compliance program will be administered by both the District of Columbia's Air Quality Division (hereinafter "District of Columbia") and the United States Environmental Protection Agency, **Region** 3, Air Protection Division (hereinafter "EPA"). Such agreement will be maintained consistent with the Clean Air **Act** (CAA), and other existing regulations, and national policies.
- C. This MOU may be modified after mutual consent of both parties for any purpose. Any revisions or modifications to this MOU shall be in writing signed by the District of Columbia and EPA.

II. PURPOSE:

- A. **This** MOU is entered into jointly by the District of Columbia and the EPA for purposes of implementing the Title V Permits Program and the Air Compliance Program. Each party is responsible for ensuring that its obligations for Title V Permits under part 70 and Title V of the **CAA** are met accordingly. Also, that each party is responsible for adherence to national enforcement policies, and reporting of Minimum Data Requirements (**MDRs**)

into the national AIRS Facility Subsystem (AFS) consistent with national time frames. Both parties agree to maintain a **sufficient** level of communication, cooperation, and coordination between their respective staffs to ensure successful and effective administration of the Title V Operating Program and the Air Compliance Program.

- B. Where provisions or conditions of this MOU conflict with any portion of previous agreements between the District of Columbia and EPA, the provisions or conditions of this MOU **shall** supersede those provisions or conditions of the prior agreements.
- C. Both parties also agree to maintain a list of contact persons involved with **implementation** of both programs.

### III. GENERAL RESPONSIBILITIES:

- A. Notwithstanding the statutory and regulatory authority or any inter-agency agreements between the District of Columbia and EPA, the District of Columbia has the primary responsibility for implementation of the Title V Operating Permits Program, as well as primary responsibility for implementation of national compliance policies and data reporting obligations. The District of Columbia shall conduct its compliance and enforcement activities in accordance with the national Timely and Appropriate Enforcement Response to High Priority Violators and the Compliance Monitoring Strategy (hereinafter "policies").
- B. In general, while this agreement provides the District with responsibility for initial enforcement, it is also intended to memorialize an oversight role for EPA. The EPA shall monitor compliance on a national and regional level. The EPA shall ensure that the implementation of environmental regulations through compliance assistance **and/or** enforcement activities is provided in consistent fashion across the Region. Further EPA will ensure timely and appropriate District of Columbia enforcement against **violators subject to**, and consistent with, the above national policies in order to maintain a **high** rate of compliance by the regulated community. This document does not give any third party rights, nor does it limit **EPA's** authority under the **CAA**, nor limit the District of Columbia's rights in any way.

### IV. TERM OF MOU:

This **MOU shall** be effective upon execution by appropriate representatives

of the District of Columbia and EPA. It shall remain in effect unless terminated 30 days after written notice by either party.

## V. MODIFICATION TO MOU:

This MOU will be modified in the future to reflect experiences in its implementation, as well as acknowledge revisions to national regulations, policies **and/or** guidance. This MOU may be modified only by written mutual agreement of the District of Columbia and EPA.

## VI. DISPUTE RESOLUTION:

The District of Columbia and EPA shall view conflicts arising in the implementation of this MOU as an opportunity for discussion and improvement. With respect to the Compliance Program, the District of Columbia and EPA shall **address** any disputes consistent with the Consultative Framework Process for Compliance and Enforcement Coordination. Specifically, if conflicts arise between the District of Columbia and EPA staff regarding implementation of this MOU, attempts shall be made to resolve them at the lowest staff level possible. Conflicts which cannot be resolved to the satisfaction of the District's Branch Chief of Engineering and Planning (for Permits), and the District's Branch Chief for Compliance, Enforcement and Asbestos Abatement (for Compliance), and **EPA's** Associate Director for Enforcement and Permits Review, will be elevated to District's Program Manager of the Air Quality Division, and **EPA's** Director of the Air Protection Division.

## VII. SPECIFIC RESPONSIBILITIES of the DISTRICT OF COLUMBIA AIR QUALITY DIVISION for TITLE V OPERATING PERMITS

### A. TITLE V IMPLEMENTATION

1. The District of Columbia shall implement its Title V operating permit program consistent with its operating permit program regulations as approved by EPA on April 16, 2003.
2. The District of Columbia shall ensure that all sources subject to its Title V Operating Permit program regulations submit timely applications for initial permits and permit renewals, and any relevant permit modifications.
3. The District of Columbia shall meet the following milestones:

- i. **After the effective date of this MOU, issue 100% of new initial permits within 18 months of receipt of a complete application.**
  - ii. **After the effective date of this MOU, issue 75% of renewals within 18 months of expiration date.**
  - iii. After the effective date of this MOU, issue 75% of significant permit modifications within **18** months of receipt of a complete application.
4. The District of Columbia shall 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.

**B. INFORMATION MANAGEMENT and REPORTING**

By December 1 of each year, the District of Columbia shall submit a report with the following information<sup>1</sup> for the prior EPA fiscal year:

- 1. Number of initial permits issued.
- 2. Number of initial sources for which a permit is required but not yet issued.
- 3. Number of new initial Title V permit applications received and number processed within **18** months of receipt of a complete application.
- 4. Number of renewal applications received and number of renewals issued within **18** months of permit expiration date.
- 5. Number of significant permit modification applications received and number processed within **18** months.

<sup>1</sup> These permit statistics should be a separate report for those data elements not reported in AFS.

**VIII. SPECIFIC RESPONSIBILITIES of the DISTRICT OF COLUMBIA AIR QUALITY DIVISION for AIR COMPLIANCE ACTIVITIES**

**A. COMPLIANCE and ENFORCEMENT**

- 1. The District of Columbia shall operate its compliance and inspection program consistent with the national policy known

as the "Clean Air Act Stationary Source Compliance Monitoring Strategy", dated April 25, 2001, and EPA Region 3's Area Source Delegation Implementation Strategy, dated June 8, 1999. The emphasis by the District of Columbia shall reflect a balance between Title V major sources, a limited subset of synthetic minor (SM) sources, and a limited subset of MACT area sources whose compliance date was on or before June 8, 1999.

2. The District of Columbia is responsible for monitoring compliance of stationary sources of air emissions, taking appropriate enforcement action against violators of permitting and regulatory requirements and addressing citizens' complaints regarding nuisance situations and air pollution events. The District of Columbia also is responsible for supporting **EPA's** AFS database in several capacities. There are currently 387 sources of air emissions in the District of Columbia. These are more than the Air Quality Division has resources to inspect each year. Therefore, a select number are chosen to be monitored each year. The sources shall be selected for on **and/or** off-site monitoring based on size, potential impact on air quality, citizen **concerns** and importance to the regulatory scheme. As a result, those sources that have the greatest potential for adverse impact will be considered a priority for receiving a full compliance evaluation (majors, synthetic minors, and minor MACT sources). Other facilities are overseen through other means, such as partial compliance evaluations which includes limited scope site visits and record reviews (stack test reports, telemetry data, **production/raw** material usage data, VOC content analysis, etc.). Some facilities become priorities throughout the year due to complaints being received or as a result of rising compliance concerns. Also, special initiatives will be undertaken at times to focus on a single category of sources. The District of Columbia's **projected** compliance monitoring activities should be embodied in an overall Compliance Monitoring Plan.

## B. INFORMATION MANAGEMENT and REPORTING

1. By November 1 of each year, **identify** in **AFS** all **sources** planned to be inspected for this Federal fiscal year.

2. By July 1 of each year, submit a revised CMP to EPA, if necessary, delineating by years 1 and 2 sources that will be inspected, and whether those inspections will be on-site or **off-site**, a full compliance evaluation, partial compliance evaluation or an investigation; a list of mega-sites, including the basis for identifying each source as a mega-site unless already approved by the Associate Director of the Office of Enforcement and Permits Review.
3. Provide for reporting into AFS within 60 days of completion the following: identified, addressed, and resolved HPVs; Inspection compliance status; penalties assessed and penalties paid; Permits issued: Title V, major **NSR/PSD**, and SM; Date of tests, pollutants tested, and compliance results for stack tests for major sources; and date reviewed and facility compliance status for Title V annual compliance certifications.
4. Identify to EPA all sources subject to the Timely and Appropriate Policy within the policy's time-frames and APD enforcement guidance.
5. Attempt to calculate emission reductions, where practicable, with every concluded enforcement settlement.

#### C. COMMUNICATIONS

1. Participate in T&A conference calls.
2. Identify to EPA all sources subject to the **T&A** Policy within the policy's time-frames and APD enforcement guidance.
3. On an as necessary basis, provide copies of **NOVs** and other noncompliance determinations for major sources and synthetic minors identified as **HPVs** during the **monthly/quarterly** T&A conference **calls and/or** meetings. Also provide copies of follow-up enforcement actions, penalty **amounts** and dates paid.
4. Resolve actions consistent with the Timely and Appropriate Enforcement Response Policy for High Priority Violations.

#### IX. SPECIFIC RESPONSIBILITIES of the U.S. EPA - REGION 3

A. PERMITS

1. The EPA shall operate pursuant to national and regional operating permit program initiatives that shall be delineated in Region 3's Annual MOA with EPA Headquarters, and may be modified as necessary and appropriate.

B. COMPLIANCE and ENFORCEMENT

1. The EPA shall operate pursuant to national and regional compliance and enforcement initiatives that shall be delineated in Region 3's Annual MOA with EPA Headquarters, and may be modified as necessary and appropriate.
2. The EPA shall conduct inspections of planned national and regional sectors that will be shared with the District of Columbia at the beginning of each Fiscal Year.
3. The EPA shall take action pursuant to Sections 113 or 114 of the Clean Air Act where the District of Columbia requests such action or where there exists a violation of a federal order or decree or a national or regional initiative.
4. The EPA shall confer with the District of Columbia prior to initiating any action pursuant to Sections 113 or 114 of the Clean Air Act. Such communication shall occur as soon as the EPA has reason to believe such action is necessary.
5. The EPA shall share with the District of Columbia compliance assistance information it has developed or intends to use itself.

C. INFORMATION MANAGEMENT

1. The EPA shall share with the District of Columbia information periodically generated or accumulated for compliance or enforcement purposes to promote an awareness of its activities, and for mid-year or year-end program-wide analysis.
2. The EPA and the District of Columbia shall consult as necessary and appropriate, but not less than once every four months as part of the T&A communications to discuss

compliance and enforcement efforts. **During** such meetings, the following information shall be shared:

- i. planned federal inspections
- ii. planned federal enforcement activities
- iii. progress with ongoing federal enforcement actions

D. TRAINING

1. The EPA shall, at the request of the District of Columbia, provide training regarding regulations, guidance, or other matters relevant to the Title V Operating Permit program, as resources allow.
2. The EPA shall, at the request of the District of Columbia, provide training on regulations, guidance, inspection procedures, or other matters relevant to compliance and enforcement activities, **as** resources allow.
3. The EPA shall conduct an annual workshop for AFS data management, and on-site training, when requested and assuming available travel funds exist.

X. PROGRAM EVALUATION

A. TITLE V PERMITS

The EPA shall, on a periodic basis, conduct comprehensive Title V Operating Permit program and permit content evaluations. Such evaluations shall be coordinated with the District of Columbia in advance and with identified procedures.

B. COMPLIANCE AND ENFORCEMENT

Any evaluation of the District of **Columbia's** compliance and enforcement program must account for the unique requirements, approaches, issues, and authorities of the Environmental Health Administration. Any such evaluation must be on a program-wide basis at the close of each federal fiscal year or as part of a national initiative such as the Oversight Review Framework. Notwithstanding

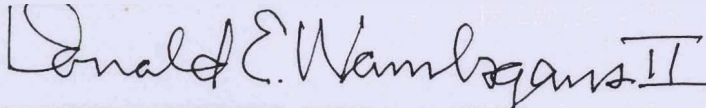
such evaluation, the District of Columbia and the EPA will review issues relative to the implementation of this **MOU** as part of the **T&A** Meetings. The following may be considered:

- i. compliance rates
- ii. rates of recurring noncompliance and specific chronic violators
- iii. sources on the national "**Watch List**"<sup>1</sup> data base
- iv. frequency and adequacy of communications
- v. coordination efforts
- vi. penalty adequacy
- vii. AFS data quality
- viii. compliance with the national Compliance Monitoring Strategy
- ix. inspection thoroughness
- x. timeliness of enforcement actions
- xi. appropriateness of enforcement actions

C. GENERAL

Evaluation of the District's air compliance and permit programs must consider the degree to which the EPA acted as a leader for, partner with, and enabler of the District of Columbia relative to compliance, enforcement and permit activities. Such evaluation shall occur at the close of each federal fiscal year, or other time frame as may be mutually agreed upon.

For the District of Columbia:

  
\_\_\_\_\_  
Donald Wambsgans, Program Manager  
Air Quality Division

12/13/05

Date:

For the U.S. Environmental Protection Agency - Region 3:

  
\_\_\_\_\_  
Judith M. Katz, Director  
Air Protection Division

10/5/05

Date:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

OCT 15 2007

Ms. Cecily Beall, Bureau Chief  
Air Quality Division  
District Department of the Environment  
51 N Street, N.E.  
Washington, D.C. 20002

Dear Ms. Beall:

In the fall of 2005, we entered into a Memorandum of Understanding (MOU) between the U.S. Environmental Protection Agency (EPA) and the District of Columbia regarding the management and oversight of the Title V Operating Permit Program and Air Compliance Program in the District. The purpose of this letter is to clarify the existing MOU to recognize your obligation to satisfy a more recent national EPA data collection request regarding the Title V program.

On August 16, 2006, EPA issued a memorandum entitled, "Revisions to Data Used for Title V Administrative Tracking (TOPS)" (enclosed). The memorandum establishes a uniform reporting instrument for the provision of Title V operating permit program implementation data to EPA by all permitting authorities in the country. This semiannual Title V permit data report requires the collection of data elements that are more inclusive than those data elements prescribed in Section VII.B. of the MOU. Therefore, this letter affirms that your submission of the semiannual Title V permit data report as detailed in the August 16, 2006 memorandum by July 31 and January 31 of each year will necessarily satisfy the reporting obligations of Section VII.B. of the MOU.

Please append this letter to the existing signed MOU as a means to clarify your obligations under Section VII.B. If you have concerns regarding this letter or do not wish to affect the MOU in this fashion, please contact me so that we may discuss other alternatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith M. Katz".

Judith M. Katz, Director  
Air Protection Division

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

AUG 16 2006

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

**MEMORANDUM**

SUBJECT: Revisions to Data Used for Title V Administrative Tracking (TOPS)

FROM: *for* William T. Harrett *Scott Marbles*  
Director, Air Quality Policy Division (C504-01)

TO: Regional Air Division Directors

Last year, an EPA work group, led by Region 5, was formed and tasked with reviewing and updating the data collected and used for tracking progress of the Title V operating permits program. The purpose of this memorandum is to transmit the revised data elements that resulted from the work group efforts. The collected data is entered into an EPA database, the Title V Operating Permits System (TOPS) database, and used to track State and Local Agency progress in implementing operating permits programs under 40 CFR Part 70. We are doing this to ensure we maintain adequate data for program oversight, including for reporting progress to the Office of Management and Budget (OMB) on meeting certain national goals for part 70 program administration established during OMB's Performance Assessment Rating Tool (PART) review. The Office of Air Quality Planning and Standards (OAQPS) are in the process of revising the TOPS database to include the revised data elements that we collect on issuance of initial permits, permit renewals, and permit modifications. In addition, we are changing the data reporting frequency from once a quarter to twice a year.

I am asking EPA Regions to transmit the attached documents to each of their State and local permitting agencies and to work with them to collect the new data. As you have done in the past, we will need Regional assistance in gathering the data from State and local agencies and entering the data into TOPS. We expect the new data to be reported for the first time in January of 2007, (covering the July-December 2006 period), although we are making allowances for State and local agencies that cannot meet this deadline (described as a "transition plan" below).

State and local permitting authorities were involved in the TOPS revision process. We first informed State and local agencies of the need to revise TOPS in March 2005 through STAPPA/ALAPCO. In January 2006, we provided a draft of the reporting form

to STAPPA/ALAPCO, and we asked for their input. We received several comments. Most comments were supportive, but several made specific requests for revisions or clarifications of the data elements. We have prepared a response to comments document to address the comments received.

Attached are three documents that provide additional information on these changes. First, a Question and Answer (Q&A) document providing detailed background information, including a transition plan for State and local agencies that need more time to start reporting the revised TOPS data (e.g., those that need to re-program State computer systems). Second, a reporting form that State or local agencies may use to report the data to EPA Regions, which provides detailed explanations of each data element. Third, a Response to Comments document, describing State and local agency concerns on an earlier draft of the TOPS reporting form and EPA responses, including revisions and clarifications made in response to those concerns.

If you have general questions about TOPS, please call Jeff Herring (OAQPS) at (919) 541-3195. For more specific questions about the TOPS workgroup or the definitions of the new data elements, please call Beth Valenziano (EPA Region 5) at (312) 886-2703.

Attachments

## **Q & A's on Revisions to TOPS**

### ***What is TOPS?***

The Title V Operating Permit System (TOPS) is an internal EPA computer database used to track the progress of State and local permitting authorities ("Permitting Authorities") in administering approved part 70 operating permit programs. Currently, each Permitting Authority provides tracking data four times a year to its EPA Region and the EPA Region enters the data into TOPS. EPA takes data on issuance of initial operating permits from TOPS and provides it to the public at <http://www.epa.gov/oar/oaqps/permits/maps/mapslink.html>

### ***Why is TOPS being revised?***

We seek to improve the administrative tracking data that we have been collecting, and begin collecting additional data. We are making the revisions to TOPS at this time because Permitting Authorities have issued most of the first-round initial operating permits, upon which the current version of TOPS focuses. Those first-round permits are starting to expire and today's proposed revisions will enable the Agency to track the issuance of renewal permits, in addition to other items related to the issuance of initial permits and permit modifications. We are also revising TOPS to track certain other data elements consistent with an agreement with the Office of Management and Budget (OMB), resulting from a Performance Assessment Rating Tool (PART) review. Based on the recent PART review, EPA has established national targets for timely issuance of initial permits and significant modifications and the revisions to TOPS will track information relevant to these targets.

### ***How is the data reported and who enters it into TOPS?***

In the past, Permitting Authorities have provided administrative tracking data to EPA Regions every 3 months using various formats. The EPA Regions entered the data into TOPS.

EPA has developed a reporting form that identifies all of the revised data tracking elements for TOPS. EPA encourages Permitting Authorities to use this form, as it will promote data consistency across EPA Regions. For those Permitting Authorities that do not use the form, they should nevertheless refer to the form to ensure that they are reporting to EPA all of the revised data elements. See below for the time-line for submitting the new TOPS data elements.

### ***Is there a transition plan for gathering this new data from Permitting Authorities?***

EPA acknowledges that Permitting Authorities may have to update or revise their internal administrative tracking systems in response to the revisions to TOPS (e.g., certain Permitting Authorities may need to start tracking the expiration dates of permits). EPA hopes that most Permitting Authorities will begin collecting the new TOPS data by July

2006, so that complete data for the July-December 2006 period will be available in January 2007. Permitting Authorities that provide the new TOPS information for this 6-month period will no longer have to submit the previous TOPS data on a 3-month basis.

Permitting Authorities unable to provide new TOPS data for the July-December 2006 period may continue to submit old TOPS data for the July-September 2006 and October-December 2006 periods. EPA requests that all Permitting Authorities report the new TOPS data for the January-June 2007 reporting period. EPA Regions will continue to enter the data into TOPS.

***What is EPA's authority to ask States for this information?***

EPA implemented the TOPS system pursuant to Title V of the Clean Air Act and its implementing regulations (40 CFR Part 70), which authorize EPA to perform oversight activities for approved operating permit programs. Specifically, 40 CFR 70.10(b) provides that approved operating permit programs shall be conducted in accordance with the requirements of 40 CFR Part 70 and of any agreements between the Permitting Authority and the Administrator concerning operation of the program. Section 70.10(b) further authorizes EPA to take certain actions if it concludes that a Permitting Authority is not adequately administering and enforcing its part 70 program. Section 70.4(j) also provides that information obtained or used in the administration of an operating permit program must be available to EPA upon request without restriction and in a form specified by the Administrator, including computer readable files to the extent practicable.

***Were Permitting Authorities involved in the revision process?***

Permitting Authorities were involved in the revision process. We first informed Permitting Authorities of the need to revise the administrative tracking data in TOPS in March of 2005 through STAPPA/ALAPCO. In January of 2006, we provided a draft of the data collection form to STAPPA/ALAPCO, and asked for comments. We received several comments. Most comments were supportive, but several made specific requests for revisions or clarifications of the data elements. We have prepared a response to comments document to address the comments received.

***What is PART and how does this relate to TOPS?***

The PART is an accountability tool used by OMB to drive federal program improvement. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART review for part 70, completed in December 2005, resulted in agreement for EPA to provide a national percentage of timely issued initial permits and significant modifications. EPA will be calculating these national percentages, based on the information provided in TOPS. Note that for fiscal year 2007 the national target for the percentage of timely issued initial permits is 87% and for timely issued significant modifications is 94%. "Timely" in this context refers to the statutory and regulatory

requirements for Permitting Authorities to issue or deny permits within 18 months of receipt of an administratively complete permit application.

***Will additional changes be necessary in the future?***

We may need to make adjustments to our requests for tracking data as we gain implementation experience. Also, additional PART measures for the national permit program may be necessary as there are on-going discussions with OMB on appropriate PART measures. If such additional measures are necessary, we may need to revise the TOPS data elements further. If this occurs, we intend to work with the EPA Regions and Permitting Authorities to facilitate any such changes.

FINAL EPA RESPONSE TO  
STAPPA/ALAPCO COMMENTS  
ON DRAFT REPORTING FORM

TITLE V OPERATING  
PERMITS SYSTEM (TOPS)  
REVISION PROJECT

U.S. EPA Regional &  
OAQPS Workgroup  
To Revise TOPS

August 16, 2006

## Introduction

The Title V Operating Permit System (TOPS) is a computer database that EPA uses for Title V program oversight purposes. State and local permitting authorities ("Permitting Authorities") currently provide information to EPA Regions four times a year, and the EPA Regions enter that information into TOPS. The purpose of TOPS is to track permitting authority progress in issuing part 70 operating permits. The program has been in place for over a decade.

In February 2006, EPA proposed revisions to TOPS and circulated those revisions to interested stakeholders. This document contains responses to the comments that stakeholders raised concerning the February 2006 draft proposed revisions.

We are making the revisions to TOPS at this time because Permitting Authorities have issued most of the first-round initial operating permits, upon which the current version of TOPS focuses. Those first-round permits are starting to expire and today's revisions will enable the Agency to track the issuance of renewal permits, in addition to other items related to the issuance of initial permits and permit modifications. We are also revising TOPS to track certain other data elements consistent with an agreement with the Office of Management and Budget (OMB), resulting from a Performance Assessment Rating Tool (PART)<sup>1</sup> review. Based on the recent PART review, EPA has established national targets for timely issuance of initial permits and significant modifications and the revisions to TOPS will track information relevant to these targets.

EPA implemented the TOPS system pursuant to Title V of the Clean Air Act and its implementing regulations (40 CFR Part 70), which authorize EPA to perform oversight activities for approved operating permit programs. Specifically, 40 CFR 70.10(b) provides that approved operating permit programs shall be conducted in accordance with the requirements of 40 CFR Part 70 and of any agreements between the Permitting Authority and the Administrator concerning operation of the program. Section 70.10(b) further authorizes EPA to take certain actions if it concludes that a Permitting Authority is not adequately administering and enforcing its part 70 program. Section 70.4(j) also provides that information obtained or used in the administration of an operating permit program must be available to EPA upon request without

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<sup>1</sup> The Performance Assessment Rating Tool (PART) is an accountability tool used by OMB to drive federal program improvement. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART review for part 70 was completed in December 2005. As a result of that review, EPA agreed to provide OMB a national percentage of timely issued initial permits and significant modifications. EPA will be calculating these national percentages, based on the information provided in TOPS. For fiscal year 2007, the national target for the percentage of timely issued initial permits is 87% and for timely issued significant modifications is 94%, pursuant to agreement with OMB.

restriction and in a form specified by the Administrator, including computer readable files to the extent practicable.

**A. General**

1. A Permitting Authority in EPA Region 4 commented that they will need to change their automated Quarterly Title V Permitting Report in their database to report the data elements specified in the proposed TOPS revisions. There are numerous permitting offices in the state that use the same database. As a result, it will take some time for computer systems programming to implement this request statewide.

*Response: EPA acknowledges that Permitting Authorities may have to update their database queries in response to the changes to TOPS. Note, however, that the revised TOPS data elements are based on basic part 70 permit issuance milestones that all Permitting Authorities should already be tracking.*

*Permitting Authorities that are able to provide the EPA Regional Offices the new TOPS information for the July-December 2006 reporting period should no longer submit quarterly information for the previous TOPS elements. For these Permitting Authorities, the last quarterly report submitted under the old TOPS system will be for the April-June 2006 reporting period. Permitting Authorities that are not able to provide the new TOPS information for the July 2006-December 2006 reporting period should submit the old TOPS information for the July-September 2006 and October-December 2006 quarterly reporting periods. To facilitate program oversight, EPA requests that all Permitting Authorities report the new TOPS elements beginning with the January-June 2007 reporting period.*

2. A Permitting Authority in EPA Region 4 commented that, to address permit backlog concerns, it might be helpful to draft a plan to expedite issuance. They recommend that any such plans be drafted between the EPA Regions and state and local agencies.

*Response: EPA agrees that, once Permitting Authorities begin submitting the revised TOPS data, it may be appropriate for Permitting Authorities and EPA Regional Offices to develop permit issuance plans to address any backlog concerns.*

**B. Data Element 1: Outstanding Permit Issuance**

1. A Permitting Authority in EPA Region 5 suggested that this data element be static for permitting authorities that either had no commitment (they would indicate "Not applicable"), or have met the commitment (e.g., indicating the date completed). Permitting Authorities that have not completed the commitment should indicate "X of XXX commitment applications remaining".

*Response: EPA has revised data element 1 to add the date of "commitment" completion. We clarify that for purposes of TOPS reporting, the term "commitment," as used in the revised tracking form, means any agreement(s) by the Permitting Authority concerning completion dates for initial permit issuance. For example, a letter from the Permitting Authority to EPA, indicating the number of initial*

permits that will be issued within a specified time period, is a "commitment" for purposes of this data element. Permitting Authorities that do not have commitments would enter "Not Applicable" in 1.a and 1.b.

**C. Data element 2: Total Current Part 70 Universe and Permit Universe**

1. Data element 2.a. A Permitting Authority in EPA Region 5 raised several detailed questions, including requests for clarification of when to count sources (based on permit application due dates), clarification of sources no longer subject to part 70; and additional detailed scenarios.

Data Element 2.a. A Permitting Authority in EPA Region 5 agrees that clarification is needed regarding the "known sources that should have submitted a Part 70 application, but did not".

*Response:* EPA has changed this data element to clarify its intent by focusing less on the varying part 70 program application requirements. In the proposed revisions to TOPS, EPA proposed that Permitting Authorities count part 70 sources in this element only after the sources' part 70 permit applications become due. EPA chose this benchmark because Permitting Authorities may not have information pertaining to sources' part 70 status until the sources submit the applications, which in many cases will be 12 months after sources become subject to part 70. The revised data element now includes all sources subject to the Permitting Authority's approved part 70 program applicability requirements (i.e., requirements equivalent to 40 CFR 70.3). However, the instructions acknowledge that Permitting Authorities' data may be limited prior to the sources' submission of part 70 applications.

Accordingly, element 2 is intended to capture all sources currently subject to part 70, based on information available to the Permitting Authority. EPA expects that the majority of sources identified in element 2 will still be based on the Permitting Authority's application and permit tracking information. However, the Permitting Authority should count all part 70 sources it has identified, regardless of sources' application or permit status. For example, if the Permitting Authority is aware of new part 70 sources that are not yet required to submit part 70 permit applications, those sources should be included in data element 2 as well.

In addition, EPA has added examples of "sources no longer subject to part 70," in the chart, such as sources that have shut down, become natural minors, or become synthetic minors, and do not have an active part 70 permit.

2. Data element 2.b. A Permitting Authority in EPA Region 5 provided several detailed scenarios, asking EPA to further clarify this subset of the part 70 source universe.

Data element 2.b. A Permitting Authority in EPA Region 5 and a Permitting Authority in EPA Region 6 requested that EPA clarify the term "expected to obtain a synthetic minor restriction". One Permitting Authority stated that they do not separately track new applications that may include requests for minor source limits.

August 16, 2006

Data Element 2.b. Two Permitting Authorities in EPA Region 5 requested clarification of the phrase in the second bullet "synthetic minor restrictions have expired."

*Response:* EPA has revised this data element to further clarify it. The purpose of this data element is to identify the number of part 70 sources that are seeking synthetic minor restrictions to avoid the applicability of 40 CFR Part 70 (see 40 CFR 70.3), but they have not yet received such restrictions, and the part 70 program's application due dates have passed. The sources are therefore still subject to Part 70's application and permitting requirements. Some Permitting Authorities may have a number of sources in this situation, while other Permitting Authorities may not. Permitting Authorities may also wish to provide additional information in data element 9 to address any specific situations and to describe related state program requirements, as needed.

Please note that, if the Permitting Authority's part 70 applications do not readily identify sources seeking synthetic minor restrictions in lieu of a part 70 permit, the Permitting Authority may include those sources in 2.a, and need not break them out in 2.b. However, there may be instances where the Permitting Authority has knowledge - separate and apart from part 70 permit applications - that a source is seeking synthetic minor restrictions. In such instances, the Permitting Authority should report this information in data element 2.b. EPA believes it will not be unduly burdensome to calculate 2.b because Permitting Authorities need not determine the part 70 applicability implications for all synthetic minor requests. Permitting Authorities will only have to consider requests that are not acted upon before the part 70 application due date.

EPA has also clarified the meaning of "sources whose synthetic minor restrictions have expired" by noting that these include sources with no synthetic minor restrictions currently in place, even though they may be eligible for such restrictions. For the purposes of this data element, the Permitting Authority should include in data element 2.b sources that previously had limits to avoid part 70 applicability, no longer have any such limits (even though they may be eligible), and are now required to submit a part 70 application. Sources with expired synthetic minor limits that apply for part 70 permits because they are no longer seeking synthetic minor restrictions should be counted in 2.a, not 2.b. Whether or not a Permitting Authority has any sources in this situation will depend on the Permitting Authority's mechanisms for limiting part 70 applicability, such as whether synthetic minor limits expire, whether the program allows synthetic minor permit terms to extend if the source submits a timely renewal application, whether the permitting authority has other stop-gap mechanisms to avoid a lapse in synthetic minor restrictions, etc.

3. Data element 2.d. A Permitting Authority in EPA Region 5 requested that EPA clarify the term "expected" in the data element.

Data element 2.d. A Permitting Authority in EPA Region 5 noted that it is currently not set up to track this information automatically for permits issued to sources having separate source IDs. The Permitting Authority has quite a few sources where multiple permits are issued to

the same source under separate IDs including but not limited to steel mills, their contractors, and some utilities. This could require a significant manual effort.

*Response: For Permitting Authorities that issue separate part 70 permits to single sources, and also track these permits separately, the source universe identified in data element 2 may be smaller than the permit-based tracking information in subsequent data elements. For example, a permitting authority may have a total part 70 source universe of 200, but those 200 sources may be covered by a total of 250 individual permits. To help reconcile any such discrepancies, data element 2.d provides a place to identify the permitting authorities' total permit universe.*

*The transition period from the old TOPS tracking system to new TOPS, discussed in A.1 above, should provide Permitting Authorities sufficient time to adjust current tracking systems. Permitting Authorities that issue separate part 70 permits to single part 70 sources should be able to ascertain both the number of part 70 sources, as well as the associated number of part 70 permits. However, if the Permitting Authority issues multiple permits to single sources on the same time line, i.e., they are issued simultaneously and have identical 5-year permit terms, and the Permitting Authority tracks and reports these multiple permits as a single permit, then the Permitting Authority may enter "not applicable" in element 2.d. In addition, EPA has revised the element to remove the term "expected", as some Permitting Authorities found the term confusing.*

**D. Data element 3: Total Active Part 70 Permits**

1. Data element 3. A Permitting Authority in EPA Region 5 provided several detailed scenarios, asking EPA to further clarify this data element, particularly with respect to extended permits.

Data element 3. The Permitting Authority's comments on element 2.d regarding tracking multiple permits issued to single sources also applies to element 3.

*Response: EPA believes that the current description of this data element, as well as the description of extended permits in data element 6.b, is sufficient.*

*However, we have further clarified that Permitting Authorities should only count currently active permits. Permitting Authorities should not count part 70 permits that are no longer in effect, including, for example, sources that have shutdown, sources that have obtained permits with synthetic minor restrictions such that the sources no longer meet the applicability criteria of 40 CFR Part 70, etc. EPA notes that the procedures for rendering part 70 permits no longer effective may vary, depending on the specific Permitting Authority's requirements.*

See response C.3 above addressing the comment of the Permitting Authority from EPA Region 5.

**E. Data Element 4: Timeliness of Initial Permits**

1. Data Element 4. On the February 2006 STAPPA conference call, several Permitting Authorities expressed concern regarding the need for this data element.

*Response:* These data elements will allow EPA to track the annual measures that EPA and OMB agreed to in the PART review of the title V program completed in December 2005. The PART review is an OMB requirement for each federal agency (over 700 agencies have been "PARTED" to date). This review requires both long-term and annual measures to track success of the program in meeting its goals. Although the long-term measures are still under development, the annual measures are included in the TOPS system to facilitate reporting and handling of the data.

2. Data Element 4.a. Several Permitting Authorities requested clarification regarding whether "complete application" referred to administrative or technical completeness.

*Response:* EPA has modified these data elements to refer to an "administratively complete application." Section 70.5(a)(2) provides that the operating permit program include "criteria and procedures for determining in a timely fashion when applications are complete." Pursuant to 40 CFR 70.7(a)(4), the Permitting Authority must "promptly provide notice to the applicant of whether the application is complete." Section 70.7(a)(4) further provides that "[u]nless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of the application, the application shall be deemed complete." The 18 month time period for processing permit applications begins upon receipt of an administratively complete application. See, e.g., 70.7(a)(2); 57 FR 32272 (July 21, 1992). In July 1995, EPA issued guidance on the issue of completeness determinations. See White Paper for Streamlined Development of Part 70 Permit Applications (White Paper 1), July 10, 1995, at 19-20. EPA refers Permitting Authorities to that guidance which addresses administratively complete applications.

Some Permitting Authorities have expressed concern that the need for additional information from an applicant after an application is deemed administratively complete can affect permit issuance rates. If this is an issue, Permitting Authorities may choose to provide information in data element 9 pertaining to the initial permits that were not finalized within 18 months of receipt of an administratively complete application due to requests for additional information. For purposes of reporting under these TOPS data elements, requests for additional information made after a finding of completeness (or after an application is deemed complete under 40 CFR 70.7(a)(4)) do not restart the 18-month clock.

3. Data Elements 4.a and b. A Permitting Authority in EPA Region 5 requested additional clarification regarding when to count applications as "initial", for sources that had previously been issued state only or synthetic minor permits, or for sources whose previous permits had lapsed.

*Response:* For TOPS tracking 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 a previous permit has lapsed, the part 70 applicability status of the source--not the status of the previous permit--should be used to determine whether the subsequently issued permit is an initial or a renewal part 70 permit. For example, if a source's previous part 70 permit expired because the source did not submit a timely and complete renewal application, the subsequently issued part 70 permit is still considered a renewal permit because the source remained subject to part 70. Another example is where a source has an expired synthetic minor permit and applies for a part 70 permit. For TOPS purposes, this application would be considered an "initial" application. Permitting Authorities should determine the part 70 status of sources when calculating the TOPS data elements. Permitting Authorities may also wish to provide additional information in data element 9 to address any specific situations and to describe related state/local program requirements, as needed.

4. Data Element 4.c. A Permitting Authority in EPA Region 5 suggested removing the percentage calculation element because it is irrelevant and may be misinterpreted as representing the overall ability of a permitting authority to adequately implement the Part 70 program. The Permitting Authority agrees that data elements 4.a and 4.b are useful for identifying the split of permits that did and did not meet the processing deadline.

*Response:* EPA agrees that it is not necessary for Permitting Authorities to provide the percentage calculation of initial permits issued timely within the 6 month reporting period, and has removed data element 4.c. However, please note that EPA has agreed to provide OMB a national percentage of timely issued initial permits as part of the PART review process. Therefore, EPA will be calculating the national percentage, based on the information Permitting Authorities provide in data elements 4.a and 4.b. Note also that the national target for the percentage of timely issued initial permits has changed from 100% to 87% for fiscal year 2007, pursuant to discussions with OMB.

**F. Data Element 5: Total Outstanding Initial Part 70 Applications and Synthetic Minor Requests**

1. Data Element 5.a. Several Permitting Authorities requested clarification regarding whether "complete application" referred to administrative or technical completeness.

Data Element 5.a. A Permitting Authority in EPA Region 5 provided several detailed questions, asking EPA to further clarify this data element.

*Response:* EPA has revised this data element to refer to "administratively complete" initial Part 70 permit applications. See the discussion in section E.2 above. In addition, EPA has revised the element to remove the phrase "sources expected to obtain a part 70 permit", as some Permitting Authorities found the term "expected" confusing. EPA also removed a redundant sentence in the information section of the chart.

The purpose of this data element is to identify the initial part 70 permit application backlog. As discussed in section E.3 above, for TOPS purposes, initial applications are applications for sources that

are 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. Due to the structure of the commenter's permitting program, this Permitting Authority may be grouping part 70 and other types of permits together in determining "initial" or "renewal" status. States should determine the part 70 status of sources when calculating the TOPS data elements.

The initial part 70 permit application backlog element only tracks pending applications that have not yet been acted on. For example, once a Permitting Authority issues a part 70 permit-even if that action occurred more than 18 months after receipt of an administratively complete application--that application is no longer counted in this data element.

2. Data element 5.b. A Permitting Authority in EPA Region 5 commented that definition of the sources captured by this data element may need some clarification. The Permitting Authority suggests that applications submitted before 1997 be reported separately from more recent applications received more than 18 months ago.

Data element 5.b. A Permitting Authority in EPA Region 6 commented that they do not categorize minor source permit applications into those that would/would not be Title V without permit restrictions.

Data element 5.b. A Permitting Authority in EPA Region 5 provided several detailed questions, asking EPA to further clarify this data element.

*Response:* EPA has decided to remove data element 5.b. This element was intended to capture the synthetic minor application backlog for part 70 sources seeking to avoid the part 70 program. However, EPA found it difficult to define this element in a way that would adequately address Permitting Authorities' varied programs, and as a result many found the data element confusing. Data element 2.b still captures information regarding sources seeking to avoid part 70, which EPA will use for national program oversight. Permitting Authorities should be prepared to provide additional information regarding these sources, if necessary for individual program oversight.

3. Data element 5.d. A Permitting Authority in EPA Region 5 commented that there are so many variables in determining the different time clocks for the State's combined New Source Review/part 70 permit issuance timelines, it would be complicated to report on this data element.

Data element 5.d. A Permitting Authority in EPA Region 5 suggested striking this metric. To ensure consistency and reduce workload and confusion, the State suggests all Permitting Authorities report consistently nationwide based on the 40 CFR Part 70 requirements.

Data element 5.d.2. A Permitting Authority in EPA Region 6 commented that the synthetic minor restriction number would always be zero for that Permitting Authority, as addressed in section 2.b comments above.

*Response:* EPA agrees that reporting based on Permitting Authority-specific timelines may be difficult to manage as a national TOPS data

element due to the many varied requirements across the country. Although EPA is removing this data element from TOPS, EPA may nonetheless request this information as necessary for individual part 70 program oversight.

**G. Data Element 6: Outstanding Renewal Permit Actions**

1. Data Elements 6.a and 6.b. A Permitting Authority in EPA Region 5 asked for clarification on the word "addressed," when referring to "expired permits addressed through consent orders or other enforcement mechanisms."

Data Elements 6.a and 6.b. A Permitting Authority in EPA Region 5 asked for clarification regarding determining whether an application is timely, i.e., application received date vs. postmark date.

*Response: These requirements may vary, depending on factors outside of the part 70 program. For purposes of TOPS reporting, Permitting Authorities should count all expired permits for those sources that meet the applicability requirements of 40 CFR 70.3, even if a source is still complying with the expired permit for other purposes, such as to meet the terms of a consent order. With respect to determining timely application status for purposes of TOPS reporting, Permitting Authorities should consider relevant state administrative requirements, such as considering postmark dates, when making this determination.*

2. Data Element 6.a. A Permitting Authority in EPA Region 6 commented that it does not track this information, but checks for expired permits through annual inspections for all part 70 sources. The Permitting Authority can provide the number of enforcement actions for expired permits.

Data Element 6.a. A Permitting Authority in EPA Region 5 commented that this element is complicated because it requires identifying the null case where no application has been received. The Permitting Authority also requested clarification on several detailed permitting scenarios.

*Response: EPA acknowledges that Permitting Authorities may have to update their tracking systems in response to the changes to TOPS. Permitting Authorities should be able to determine permit expiration dates for each permit. This should not be unduly burdensome, as most part 70 permits have a fixed 5 year term. Permitting Authorities that are not currently tracking permit expiration dates may need to either add this tracking element or they may be able to calculate it based on permit issuance dates.*

*EPA disagrees that tracking expired permits is complicated. Because most permits have a fixed 5 year term, it is a straightforward matter to determine when the 5 year term has ended. Further, because Permitting Authorities should also be tracking permit renewal applications, it should not be difficult to remove from a preliminary count of potentially expired permits those sources that have submitted timely and administratively complete renewal applications.*

*The Region 5 Permitting Authority's detailed questions again pertain to the interrelated structure of their permitting programs. Permitting*

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Authorities should determine the part 70 status of sources when calculating the TOPS data elements. For example, this Permitting Authority refers to part 70 applications for a source previously subject to a state permit program as renewal applications. For purposes of TOPS, these are considered initial part 70 applications and would not be counted in this data element.

3. Data element 6.b. A Permitting Authority in EPA Region 6 commented that it does not track extended permit information, and uses annual inspections to assure timely renewals.

Data element 6.b. A Permitting Authority in EPA Region 5 requested clarification on several detailed permitting scenarios.

*Response:* EPA acknowledges that Permitting Authorities may have to update their tracking systems in response to the changes to TOPS. In addition to TOPS tracking, Permitting Authorities should be able to identify extended part 70 permits for the purposes of managing their own permit issuance workloads and priorities. Once Permitting Authorities determine the expired permit information for element 6.a, they will also be able to identify the extended permit information in element 6.b.

The Region 5 Permitting Authority's detailed questions again pertain to the interrelated structure of their permitting programs. Permitting Authorities should determine the part 70 status of sources when calculating the TOPS data elements. EPA will work with this Permitting Authority if necessary to address any outstanding questions.

#### H. Data Element 7: Timeliness of Significant Modifications

1. Data element 7. Several Permitting Authorities requested clarification regarding administrative versus technical completeness.

*Response:* As addressed above in section E.2, EPA has clarified this data element to refer to administrative completeness.

2. Data element 7.c. A Permitting Authority in EPA Region 5 suggested striking the percentage timely calculation because it is irrelevant and may be misinterpreted as representing the overall ability of a permitting authority to adequately implement the Part 70 program.

*Response:* EPA agrees that it is not necessary for Permitting Authorities to provide the percentage calculation of significant modifications issued timely within the 6 month reporting period, and has removed data element 7.c. However, please note that EPA has agreed to provide OMB a national percentage of timely issued significant modifications as part of the PART review process. Therefore, EPA will be calculating the national percentage, based on the information Permitting Authorities provide in data elements 7.a and 7.c. Note that the national target for the percentage of timely issued significant modifications has changed from 100% to 94% for fiscal year 2007, pursuant to discussions with OMB.

Also see the response below in section I.2, regarding an addition to data element 7.

**I. Data Element 8: Outstanding Significant Permit Modifications**

1. Data element 8. Several Permitting Authorities requested clarification regarding administrative versus technical completeness.

*Response: As addressed above in section E.2, EPA has clarified this data element to refer to administrative completeness.*

2. Data element 8.b. A Permitting Authority in EPA Region 5 suggested striking this metric, consistent with their comments on element 5.d. To ensure consistency and reduce workload and confusion, they suggest all Permitting Authorities report based on the 40 CFR Part 70 requirements.

Data element 8.b. A Permitting Authority in EPA Region 5 requested clarification regarding how to calculate their specific deadlines for merged New Source Review/part 70 applications. In addition, the Permitting Authority requested clarification regarding whether EPA wants information pertaining to the 40 CFR 70.7(e)(4)(ii) requirement that the majority of significant permit modification reviews be completed within 9 months.

*Response: EPA agrees that reporting based on Permitting Authority-specific timelines may be difficult to manage as a national TOPS data element due to the many varied requirements across the country. Although EPA is removing this data element from TOPS, EPA may nonetheless request this information as necessary for individual part 70 program oversight.*

*EPA agrees that it would be useful to collect data pertaining to the 9 month significant permit modification provision in 40 CFR 70.7(e)(4)(ii). We have expanded data element 7 to capture the number of significant modifications finalized during the 6 month reporting period that were issued within 9 months. Because data element 7 already requires Permitting Authorities to calculate similar significant modification data, this addition is not overly burdensome. Note, however, that the 9 month issuance data is not a PART reporting requirement.*

### 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.

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

Data Element	Reported Value	Information
<b>1. Outstanding Permit Issuance</b>	a) Number of final actions:	<ul style="list-style-type: none"> <li>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).</li> <li>If the Permitting Authority does not have a commitment, enter "not applicable" in 1(a) and 1(b).</li> </ul>
	b) Total commitment universe:	
	c) Date commitment completed (if applicable):	
<b>2. Total Current Part 70 Source Universe and Permit Universe</b>	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:	<ul style="list-style-type: none"> <li>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).</li> <li>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.</li> <li>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.</li> <li>Do <u>not</u> double count sources included in 2.b).</li> </ul>

<p><b>Total Current Part 70 Source Universe and Permit Universe</b></p> <p>(Continued)</p>	<p>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:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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).</li> <li>• 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.</li> <li>• Do <u>not</u> count sources that have active synthetic minor restrictions and are no longer subject to part 70.</li> <li>• Do <u>not</u> double count sources included in 2(a).</li> </ul>
	<p>c) Total number of current part 70 <u>sources</u> (a+b):</p>	
	<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>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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).</li> </ul>

<p><b>3. Total Active Part 70 Permits</b></p>	<p>Total number of active part 70 permits:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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).</li> </ul>
<p><b>4. Timeliness of Initial Permits (PART element)</b></p>	<p>a) Total number of initial part 70 permits issued during 6 month reporting period:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• If no initial permits were issued during the 6 month reporting period, report "zero" in 4(b), and "not applicable" in 4(a).</li> </ul>
	<p>b) Number of initial part 70 permits finalized during 6 month reporting period that were issued within 18 months:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>

<p><b>5. Total Outstanding Initial Part 70 Applications</b></p>	<p>The number of active initial part 70 applications older than 18 months:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Include all current outstanding initial applications, including those that may also be tracked in data element #1.</li> <li>• Do <u>not</u> count initial applications the Permitting Authority has taken final action on.</li> </ul>
<p><b>6. Outstanding Renewal Permit Actions</b></p>	<p>a) Total number of expired permits for active part 70 sources:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <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>

<p><b>Outstanding Renewal Permit Actions</b></p> <p><b>(Continued)</b></p>	<p>b) Total number of active permits with terms extended past 5 years:</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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).</li> <li>• For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each extended permit separately.</li> </ul>
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<p><b>7. Timeliness of Significant Modifications (PART element - a and b only)</b></p>	<p>a) Total number of significant modifications issued during 6 month reporting period:</p>	<ul style="list-style-type: none"> <li>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).</li> <li>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).</li> <li>Start the application clock on the submittal date of an administratively complete significant modification application. Do not restart the clock for additional information submissions.</li> </ul>
	<p>b) Number of significant modifications finalized during 6 month reporting period that were issued within 18 months:</p>	
	<p>c) Number of significant modifications finalized during 6 month reporting period that were issued within 9 months:</p>	
<p><b>8. Outstanding Significant Permit Modifications</b></p>	<p>Total number of active significant modification applications older than 18 months:</p>	<ul style="list-style-type: none"> <li>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.</li> <li>Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete.</li> <li>Do <u>not</u> count significant modification applications the Permitting Authority has taken final action on.</li> </ul>
<p><b>9. Comments and Additional Information</b></p>		<p>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.</p>

Clean Air Act Title V Program Evaluation Report  
Department of Energy and Environment – FY2023

# Appendix E

## 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.

<b>Permitting Authority:</b>	District of Columbia Department of Energy and Environment Air Quality Division	
• <b>Report Date:</b>	July 20, 2023	
<b>Reporting Period:</b>	<input checked="" type="checkbox"/> January 01 – June 30, 2023 *Report due July 31*	<input type="checkbox"/> July 01 – December 31, *Report due January 31*

Data Element	Reported Value	Information
1. <b>Outstanding Permit Issuance</b>	a) Number of final actions: Not Applicable	<ul style="list-style-type: none"> <li>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).</li> <li>If the Permitting Authority does not have a commitment, enter “not applicable” in 1(a) and 1(b).</li> </ul>
	b) Total commitment universe: Not Applicable	
	c) Date commitment completed (if applicable): N/A	
2. <b>Total Current Part 70 Source Universe and Permit Universe</b>	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:  38	<ul style="list-style-type: none"> <li>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).</li> <li>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.</li> <li>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.</li> <li>Do <u>not</u> double count sources included in 2.b).</li> </ul>

<p><b>Total Current Part 70 Source Universe and Permit Universe</b></p> <p><b>(Continued)</b></p>	<p>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:</p> <p>1 - Verizon Washington DC Inc. - Metro Communication Center</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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).</li> <li>• 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.</li> <li>• Do <u>not</u> count sources that have active synthetic minor restrictions and are no longer subject to part 70.</li> <li>• Do <u>not</u> double count sources included in 2(a).</li> </ul>
	<p>c) Total number of current part 70 <u>sources</u> (a+b):</p> <p>39</p>	
	<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>40 - This includes multiple permits or applications for Joint Base Myer-Henderson Hall and Howard University</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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).</li> </ul>

<p><b>3. Total Active Part 70 Permits</b></p>	<p>Total number of active part 70 permits:</p> <p>37</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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).</li> </ul>
<p><b>4. Timeliness of Initial Permits (PART element)</b></p>	<p>a) Total number of initial part 70 permits issued during 6 month reporting period:</p> <p>0</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• If no initial permits were issued during the 6 month reporting period, report "zero" in 4(b), and "not applicable" in 4(a).</li> </ul>
<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"> <li>• 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.</li> <li>• 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.</li> </ul>	

<p><b>5. Total Outstanding Initial Part 70 Applications</b></p>	<p>The number of active initial part 70 applications older than 18 months:</p> <p>1 - DC Water Blue Plains</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Include all current outstanding initial applications, including those that may also be tracked in data element #1.</li> <li>• Do <u>not</u> count initial applications the Permitting Authority has taken final action on.</li> </ul>
<p><b>6. Outstanding Renewal Permit Actions</b></p>	<p>a) Total number of expired permits for active part 70 sources:</p> <p>2 - D.C. General Health Campus and Jail, The Washington Hilton Hotel</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <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>

<p><b>Outstanding Renewal Permit Actions</b></p> <p><b>(Continued)</b></p>	<p>b) Total number of active permits with terms extended past 5 years:</p> <p>15</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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).</li> <li>• For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each extended permit separately.</li> </ul>
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<p><b>7. Timeliness of Significant Modifications (PART element - a and b only)</b></p>	<p>a) Total number of significant modifications issued during 6 month reporting period:</p> <p>0 - Note: Did not include a significant modification that was acted upon in conjunction with a renewal application.</p>	<ul style="list-style-type: none"> <li>• 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).</li> <li>• 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).</li> <li>• Start the application clock on the submittal date of an administratively complete significant modification application. Do not restart the clock for additional information submissions.</li> </ul>
<p>b) Number of significant modifications finalized during 6 month reporting period that were issued within 18 months:</p> <p>0</p>		
<p>c) Number of significant modifications finalized during 6 month reporting period that were issued within 9 months:</p> <p>0</p>		
<p><b>8. Outstanding Significant Permit Modifications</b></p>	<p>Total number of active significant modification applications older than 18 months:</p> <p>6</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete.</li> <li>• Do <u>not</u> count significant modification applications the Permitting Authority has taken final action on.</li> </ul>
<p><b>9. Comments and Additional Information</b></p>		<p>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.</p>