



## ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

WASHINGTON, D.C. 20460

May 11, 2026

### MEMORANDUM

**SUBJECT:** Guidance on Streamlining Title V Operating Permit Reviews

**FROM:** Aaron Szabo  
Assistant Administrator

A handwritten signature in purple ink, appearing to read "A Szabo", is written over the name and title of the sender.

**TO:** Regional Administrators, Regions 1-10

#### I. Introduction and Purpose

Title V of the Clean Air Act (CAA) Amendments of 1990 establishes a stationary source operating permit program that is primarily administered by State, local, and Tribal air agencies (“permitting authorities”). Before issuing a final permit, the CAA and the U.S. Environmental Protection Agency’s (EPA) regulations require that permitting authorities provide the public with notice and at least 30 days to comment on most types of draft permit actions.<sup>1</sup> Permitting authorities must also provide the EPA with a copy of each proposed permit, after which the Agency has 45 days to review and, if appropriate, object to the proposed permit.<sup>2</sup> If the EPA does not object to a permit during the Agency’s 45-day review period, any person may petition the EPA Administrator within 60 days to object.<sup>3</sup>

This memorandum promotes the statutory direction for a “streamlined” and “expeditious” permit review process<sup>4</sup> by ensuring permitting authorities and EPA Regions are aware of opportunities to eliminate unnecessary delays in the beginning and end of the EPA’s review periods, thus allowing for final permits to be issued more efficiently.

Specifically, this memorandum clarifies the EPA’s position on the following:

- the Agency can concurrently review a proposed permit while the draft permit is going through the required public participation process;
- the Agency can expedite and conclude review of a proposed permit, and permitting authorities can finalize a title V permit, prior to the conclusion of the Agency’s 45-day review period; and
- the correct method for calculating title V permit review deadlines.

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<sup>1</sup> 42 U.S.C. § 7661a(b)(6); 40 CFR 70.7(h), (h)(4).

<sup>2</sup> 42 U.S.C. § 7661d(a), (b)(1); 40 CFR 70.8(a)(1), (c)(1). The proposed permit must be accompanied by the statement of basis and, if relevant, the permitting authority’s response to all significant comments. 40 CFR 70.8(a)(1).

<sup>3</sup> 42 U.S.C. § 7661d(b)(2); 40 CFR 70.8(d), 70.12–14.

<sup>4</sup> 42 U.S.C. § 7661a(b)(6) requires the EPA Administrator to promulgate rules that include “[a]dequate, streamlined, and reasonable procedures . . . for expeditious review of permit actions.”

This memorandum is not a rule or regulation, and the guidance it contains may not apply to a particular situation based upon the individual facts and circumstances. The memorandum does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally binding or enforceable.

## **II. Concurrent Public and EPA Review**

Permitting authorities and EPA Regions should work collaboratively to ensure that the EPA reviews and provides any appropriate feedback on title V permits as early in the permitting process as practicable. For example, permitting authorities may provide the EPA with a preliminary version of a permit prior to the submission of an official “proposed permit” as required by the CAA and the Agency’s regulations. Additionally, to expedite the issuance of title V permits, permitting authorities can take advantage of the “concurrent review” pathway that is expressly authorized in the EPA’s regulations.<sup>5</sup> When permitting authorities begin the 30-day public comment period on a draft permit, they may simultaneously submit the same document to the EPA, which functions as the proposed permit, for the Agency’s 45-day review period. The EPA’s review would run concurrently with the public comment period.

The use of concurrent review eliminates an unnecessary source of administrative delay in the start of the EPA’s review period, particularly in situations in which States do not expect to receive significant public comment. Many title V permits do not receive significant public comment. Permitting authorities should leverage their experience and expertise working with permit applicants to evaluate as early as practicable upon receiving a permit application whether the permit is likely to receive significant public comment. If the permitting authority does not anticipate receiving significant public comment, the EPA strongly encourages the permitting authority to concurrently submit the proposed permit to the Agency.

While the use of the concurrent review pathway is an efficient option for many permits, if the permitting authority receives significant public comment, the regulations require the permitting authority to respond, update the permit or permit record if necessary, and re-submit the proposed permit and response to comments to the EPA, beginning the Agency’s review period anew.<sup>6</sup> This is known as “sequential review.” If the EPA has already reviewed the permit, the Agency’s review of the re-proposed permit should be limited in scope to changes to the permit and permit record associated with the significant comments that prompted the re-proposal. Given that the EPA would already have had at least 30 days to review the prior version of the proposed permit, the Agency anticipates that the secondary review may not take the full 45 days in most circumstances, as discussed below.

## **III. Expedited EPA Review**

After receiving a proposed permit, EPA Regions can prioritize expedited review of the proposed permit, conclude the EPA’s review as quickly as practicable, notify the permitting authority that the Agency does not object, and thus allow the permitting authority to finalize the permit earlier.

The CAA provides the EPA with the authority to object to the issuance of a title V permit “within 45 days” after receiving a proposed permit if the Agency determines that the proposed permit is not in compliance with the requirements of the CAA.<sup>7</sup> Neither the statute nor the regulations require that the EPA take the full 45 days to review a proposed permit. The EPA has the discretion to determine whether

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<sup>5</sup> 40 CFR 70.8(a)(ii); *see* 85 FR 6431 (Feb. 5, 2020) (explaining and codifying the EPA’s longstanding position).

<sup>6</sup> 40 CFR 70.8(a)(ii).

<sup>7</sup> 42 U.S.C. § 7661d(b)(1); 40 CFR 70.8(c)(1).

to object at any point during this period, and the Agency also has the discretion to communicate to the permitting authority that the Agency does not plan to object at any point during this period.<sup>8</sup> Further, although permitting authorities may not issue a final permit if the EPA objects during this 45-day period, neither the statute nor regulations prohibit permitting authorities from finalizing a permit prior to the end of this period if the EPA does not object.<sup>9</sup> Thus, the EPA can conclude the Agency’s review without objection, inform the permitting authority that the Agency does not object, and the permitting authority can then issue the final permit before the conclusion of the 45-day review period.

The EPA’s decision to conclude the Agency’s review of a proposed permit prior to the end of the 45-day review period does not equate to the Agency’s “approval” of a permit or indicate any EPA views about the permit.<sup>10</sup> Generally speaking, EPA Regions have discretion to prioritize permits for thorough review and may elect not to thoroughly review every proposed permit submitted to the Agency. In cases in which an EPA Region does not intend to conduct any review of a particular permit, the Region could promptly notify the permitting authority that the Agency does not object to the permit, allowing the permitting authority to expeditiously finalize the permit. Importantly, such a notification is not intended to convey an EPA position on the content of the proposed permit. Rather, it simply means that the permitting authority may proceed with final permit issuance without further delay. Even in cases in which the EPA completes the Agency’s review of a proposed permit and declines to object—and regardless of the timing of such review—this should not be interpreted as an affirmative EPA determination that the permit satisfies the CAA.<sup>11</sup>

Some EPA Regions and permitting authorities, through communication and cooperation, are already taking advantage of this flexibility to review and issue final permits ahead of the 45-day deadline. All EPA Regions are encouraged to expedite their reviews upon request from the permitting authority to proactively adopt this expedited review practice.

In most jurisdictions, the timing of final title V permit issuance does not affect permittees’ ability to construct or operate. However, in jurisdictions that choose to process New Source Review (NSR) preconstruction permits and title V operating permits simultaneously, allowing States to finalize title V permits more quickly could also accelerate the finalization of preconstruction permits, so as to not unnecessarily delay construction.<sup>12</sup>

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<sup>8</sup> The EPA’s regulations expressly allow permitting authorities to finalize minor permit modifications immediately after the EPA provides notice that the Agency will not object to a proposed minor modification. 40 CFR 70.7(e)(2)(iv). This memorandum clarifies that the same approach is available for other types of permit actions.

<sup>9</sup> 42 U.S.C. § 7661d(c); 40 CFR 70.8(c)(1).

<sup>10</sup> In general, the EPA has no authority to “approve” permits issued by State and local air agencies. As relevant to the EPA’s 45-day review period, the CAA provides the Agency with the authority to either “object” or not object to the issuance of a permit. 42 U.S.C. § 7661(b)(1). It is the responsibility of EPA-approved permitting authorities to “approve” or disapprove individual permit applications and issue or deny final permits. 42 U.S.C. § 7661b(c).

<sup>11</sup> Some permitting authorities and permittees have expressed a desire for certainty that the EPA will not object to a final permit in response to a public petition. While the EPA cannot prejudge the outcome of the Agency’s response to a petition to object, the Agency notes that regardless of the filing of a petition to object, a final permit is a legally valid authorization to operate the source, and remains so until a permit authority officially modifies, renews, or terminates the permit at a later date.

<sup>12</sup> No Federal laws require permitting authorities to delay issuance of final NSR preconstruction permits until the EPA has reviewed a title V permit or until a final title V permit is issued. Thus, even in situations in which States choose to combine certain aspects of the NSR and title V permit issuance processes, most permitting authorities should be able to finalize NSR permits prior to submitting proposed title V permits to the EPA. In the limited jurisdictions where such a practice may be disallowed by State law, expeditious finalization of title V permits will also speed up issuance of NSR permits and, accordingly, construction.

#### IV. Method for Computing Deadlines

This memorandum clarifies the correct method for computing deadlines related to the title V permitting and petition process. Inconsistent application of EPA review and petition deadlines has historically resulted in confusion and regulatory uncertainty among EPA Regions, permitting authorities, and petitioners, particularly in the context of determining whether the EPA is obligated to respond to petitions that were not timely filed, but which were filed by the dates communicated by EPA Regions or permitting authorities.

Both the EPA's 45-day review period and the 60-day public petition period that follows are based on the date on which a proposed permit is transmitted to, and received by, the EPA. The resulting deadlines are not affected by an EPA decision to conclude the Agency's review prior to the end of the Agency's 45-day review period. Thus, while expedited permit review procedures can result in earlier issuance of a final title V permit, those procedures do not impact the statutory timelines for public petitions to the Administrator, which must always run for 60 days after the end of the full 45-day EPA review period.<sup>13</sup>

Consistent with the default rules governing date calculations under Federal statutes that do not specify a method of computing time, as is the case with title V,<sup>14</sup> EPA Regions and permitting authorities should calculate and communicate EPA review and petition deadlines using the following standardized and reproducible method:

- i. Exclude the day of the event that triggers the period (day 1 of the EPA's 45-day review period is the day *after* the proposed permit is transmitted to the Agency, and day 1 of the public petition period is the day *after* the end of the Agency's review period);
- ii. Count every day, including weekends and Federal holidays (beginning dates *can* fall on a weekend or holiday);
- iii. If the end date of either the 45-day EPA review or the 60-day public petition period would fall on a weekend or Federal holiday, it continues to run until the end of the next business day.<sup>15</sup>

**Example:** If the EPA receives a proposed permit on Friday, April 10, 2026, the Agency's 45-day review period would begin on Saturday, April 11, 2026 (*i.e.*, this is day 1 of 45). Counting 45 days takes one to Monday, May 25, 2026. However, because the Memorial Day holiday falls on May 25, 2026, the EPA's review period would continue to run until 11:59pm Eastern Time of the next business day, Tuesday, May 26, 2026. The 60-day period in which to petition the Administrator would begin on Wednesday, May 27, 2026 (*i.e.*, this is day 1 of 60). Because day 60 of the public petition process would fall on Saturday, July 25, 2026, the period of time in which to petition the Administrator would continue to run until the end of the business day of Monday, July 27, 2026.

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<sup>13</sup> See 42 U.S.C. § 7661d(b)(2); 40 CFR 70.8(d). Just as the date on which a permit is finalized does not affect the relevant public petition deadlines, the filing of a petition to object similarly does not affect the ability of a State to issue a final permit as soon as the required permit issuance procedures are completed.

<sup>14</sup> Courts have consistently held that if a statute does not specify a method of computing time, then the Federal Rules of Procedure apply. See *Advanced Energy United, Inc. v. FERC*, 82 F.4<sup>th</sup> 1095, 1110 (D.C. Cir. 2023); *Slinger Drainage, Inc. v. EPA*, 237 F.3d 681, 683 (D.C. Cir. 2001); *United Mine Workers of America v. Dole*, 870 F.2d 662, 665 (D.C. Cir. 1989); *Union National Bank v. Lamb*, 337 U.S. 38, 40-41 (1949); Fed. R. App. P. 26(a); Fed. R. Civ. P. 6(a). The calculation methodology explained in this memorandum is based on Fed. R. App. P. 26(a)(1) and Fed. R. Civ. P. 6(a)(1), and is also consistent with the calculation methodology used in other EPA permitting programs. See 40 CFR 71.11(m) (EPA-issued title V permits); 40 CFR 124.20 (various other types of permits).

<sup>15</sup> For purposes of title V petitions, the end of a business day is midnight Eastern Time. See *In the Matter of Plains Marketing LP, et al.*, Order on Petition Nos. IV-2023-1 & IV-2023-3 at 12-13 n.11 (Sept. 18, 2023).

## V. Conclusion

This memorandum facilitates the statutory direction for a “streamlined” and “expeditious” permit review process<sup>16</sup> by ensuring permitting authorities and EPA Regional Offices are aware of streamlining opportunities that may reduce the burden on developing and processing CAA title V operating permits.

Please share this memorandum with the title V permitting authorities in your EPA Region. This memorandum can also be found in the Title V Operating Permit Policy and Guidance Document Index (<https://www.epa.gov/title-v-operating-permits/title-v-operating-permit-policy-and-guidance-document-index>).

If you have any questions regarding the memorandum, please contact Sarah Baker in the Operating Permits Branch of the Office of State Air Partnerships at [Baker.Sarah@epa.gov](mailto:Baker.Sarah@epa.gov).

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<sup>16</sup> 42 U.S.C. § 7661a(b)(6).