

**TIMELY ISSUANCE OF PERMIT RENEWALS AND  
SIGNIFICANT PERMIT MODIFICATIONS UNDER TITLE V:  
AN EVALUATION OF THE PERMIT ISSUANCE PROCESS**

Prepared for:

U.S. Environmental Protection Agency  
Office of Air Quality Planning and Standards  
Office of Policy, Economics, and Innovation

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## EXECUTIVE SUMMARY

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### INTRODUCTION

EPA's Title V Permit Program provides the framework and guidelines to support the implementation of state and local operating permit programs. Title V requires states to issue operating permits to major stationary sources of regulated air pollutants.<sup>1</sup> While these operating permits do not impose substantive new requirements on sources, they improve compliance by clarifying all the requirements that apply to a source in a single, federally enforceable document. In 40 CFR Part 70, EPA established the specific requirements and responsibilities of state and local permitting agencies ("agencies") with approved programs, including: provisions for the submission and approval or disapproval of permit applications; permit content; issuance procedures for initial permits, renewals and modifications; and the review of proposed permits by EPA and affected states.

Preliminary internal data compiled by EPA's Office of Air and Radiation (OAR), suggest that less than one-third of permit renewals are issued within the federally mandated timeframe of 18 months from the receipt of a complete application.<sup>2</sup> Delays in renewal issuance concern EPA because they postpone facility implementation of enhanced monitoring procedures required by the Compliance Assurance Monitoring (CAM) rule and slow emissions reductions that would result from improved monitoring.<sup>3</sup> In light of these findings, the Operating Permit Group in EPA's Office of Air Quality Planning and Standards (OAQPS) is interested in evaluating the efficiency and timeliness with which agencies issue permit renewals and significant permit modifications (SPMs).

OAQPS received evaluation funding support from EPA's Office of Policy, Economics, and Innovation (OPEI) through its Improving Results Competition, and contracted with Industrial Economics, Inc. (IEc) to help conduct this evaluation. Through the administration of a permit timeliness questionnaire and interviews with agencies, and a review of supplemental permitting documents, this evaluation seeks to answer the following questions:

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<sup>1</sup> In accordance with rules promulgated in 40 CFR Part 70.

<sup>2</sup> 40 CFR Part 70.7(a)(2) directs air permitting agencies to "take final action on each permit application (including a request for permit modification or renewal) within 18 months, or such lesser time approved by the Administrator, after receiving a complete application." The Office of Management and Budget (OMB) adopted this regulatory deadline as a performance measure in its Performance Assessment Rating Tool (PART) review of EPA's Air Quality and Permit Program conducted in 2005 (available at <http://www.whitehouse.gov/omb/expectmore/detail.10004377.2005.html>). EPA has interpreted the PART measure as 18 months from the date on which an application is received to the date a final permit is issued.

<sup>3</sup> 40 CFR Part 64.

- 1) What are the performance characteristics, (e.g., timeframes and procedures) in each step of state and local processes for issuing Title V permit renewals and significant permit modifications?
- 2) What are the root causes or factors that contribute to the performance characteristics associated with the issuance process for Title V permit renewals and significant permit modifications?
- 3) What actions could federal, state, or local agencies take that would increase the efficiency and effectiveness of the issuance process for Title V permit renewals and significant permit modifications?

Results from this evaluation will provide insights into how the Title V program is working and the ways in which it could be improved. The evaluation will also identify innovative approaches employed by agencies to reduce delays at different steps of the permit issuance process.

## **METHODOLOGY**

In supporting this evaluation, IEc reviewed background information provided by EPA and collected and analyzed information obtained from:

- **an on-line questionnaire** of 10 state and local air permitting agencies identified by OAQPS from each EPA Region.<sup>4</sup> The questionnaire included a mix of multiple choice, five-point scaled, and open-ended questions designed to elicit both quantitative and qualitative data.
- **a series of on-site and telephone follow-up interviews** with questionnaire respondents in each agency to address any gaps in information or potential misinterpretation of responses.
- **a review of supplemental data and documents** provided by agencies detailing their permit issuance processes and timeframes. The materials reviewed include: descriptions of permitting procedures or practices; permit application forms and templates; recent data documenting the timeliness of issued permit renewals and SPMs, and any other documentation submitted in support of agency questionnaire responses.

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<sup>4</sup> The 10 agencies selected include: the Bay Area Air Quality Management District (BAAQMD), the Connecticut Department of Environmental Protection (CT DEP), the Florida Department of Environmental Protection (FL DEP), the Kansas Department of Health and Environment (KDHE), the Maryland Department of the Environment (MDE), the Minnesota Pollution Control Agency (MPCA), the New Jersey Department of Environmental Protection (NJDEP), the Oregon Department of Environmental Quality (OR DEQ), the Texas Commission on Environmental Quality (TCEQ), and the Utah Department of Environmental Quality (UT DEQ).

## **KEY FINDINGS**

The report organizes the discussion of results by the three evaluation questions.

### **Performance Characteristics and Processes for Permit Issuance**

The evaluation results demonstrate that state and local air permitting agencies can issue timely permit renewals and SPMs under most circumstances. Actual agency permit issuance data spanning the period from 2001 to 2006 support this conclusion and further demonstrate that over the past five years, agencies have significantly improved their ability to issue renewal permits and SPMs on time, i.e., within the federal deadline of 18 months (540 days) from the receipt of a complete application. In 2001, agencies issued approximately 68 percent of their permit renewals on time; by 2005, this percentage increased to approximately 94 percent. The data show a similar trend for the proportion of SPMs issued on time. In the same five-year period, agencies also significantly reduced their issuance timeframes for renewal permits and SPMs. Overall, the average time to issue renewals permits fell from 576 days in 2001 to 257 days in 2005, a reduction of approximately 55 percent. The average time to issue SPMs fell by 32 percent from 504 days in 2001 to 342 days in 2005.

With a few exceptions, the air permitting agencies follow the same basic protocol for the issuance of Title V permit renewals and SPMs. Minimum and maximum agency timeframes estimated for each step in the issuance process also suggest that agencies have the capacity to process applications and issue permits within the federally mandated timeframe. Using the minimum number of days for each procedural step, the issuance time estimated for permit renewals is less than 18 months, ranging from 8.6 to 17.6 months. For SPMs, it ranges from 6.2 to 12.6 months. Estimated maximum renewal permit issuance timeframes exceed 18 months for all but three agencies; the mean timeframe is 22.6 months. Conversely, even under the longest time estimates, all but two agencies have the capacity to issue SPMs within 18 months; the mean timeframe is 17.0 months. A closer examination of the average minimum and maximum timeframes for permit renewals and SPMs suggests that the time needed to draft permits and conduct public hearings has a greater impact overall on timeliness than other steps in the issuance process. The difference in the number of days it takes agencies to begin and complete permit drafting renewals compared to SPMs also suggests that, all else being equal, the drafting step presents more challenges for renewals. This finding is supported by agency rankings of the factors that contribute most to delay.

### **Factors Contributing to Issuance Process Performance Characteristics**

Despite the progress made over time, agencies continue to face delays at various steps in the issuance process. Factors contributing to delay may extend the time required for the agency to complete a given step in the process without influencing the overall issuance timeframe (e.g., a delay in the time required to conduct a technical review), or they may prevent the timely issuance of permits altogether.

## **Administrative Review and Application Completeness**

Agencies identified incomplete permit applications and the subsequent appeals to, and negotiations with, applicants to obtain required information, as primary contributors to delay. A key factor cited by agencies as *almost always* or *often* contributing to renewal applications not being deemed administratively complete, is applicant confusion over interpretations of federal regulatory requirements, e.g., Compliance Assurance Monitoring (CAM), Maximum Achievable Control Technology (MACT) standards, and National Emissions Standards for Hazardous Air Pollutants (NESHAP). KDHE, MDE, and OR DEQ indicated that applicant uncertainty about how to interpret requirements *almost always* or *often* contributes to applications being found administratively incomplete, while CT DEP, NJDEQ, and UT DEQ indicated that it sometimes contributes. Several agencies noted that facilities (and the consultants who prepare permit applications) do not understand CAM and fail to address its applicability in their applications. Often these facilities do not submit a CAM plan or they submit plans that the agency finds unacceptable.

## **Technical Review and Permit Drafting – External Factors**

The time required to obtain additional information from applicants, identified during an agency's administrative completeness review (ACR) or technical review, is an external factor that can significantly impede the timeliness with which a permit writer can begin or complete the permit drafting process for both renewals and SPMs. The information may be needed to complete a CAM plan or determine applicable requirements, or may be related to facility changes in operations that have occurred since the last permit was issued, which must be incorporated into the new permit. According to the agencies, the failure of permit renewal and SPM applications to fully address federal regulatory requirements frequently contributes to the need to solicit additional information from facilities. This was cited by MDE, MPCA, NJDEP, and OR DEQ, as *almost always* or *often* contributing, and sometimes contributing by BAAQMD, CT DEP, KDHE, TCEQ, and UT DEQ.

Reluctance on the part of applicants to supply additional information in a timely manner presents a challenge for most agencies when attempting to draft permits, particularly renewals. A majority ranked the lack of responsiveness of applicants to requests for information and negotiations with applicants over permit terms, particularly the content of CAM plans and regulatory applicability, as factors that contribute significantly to time delays in drafting both permit renewals and SPMs. Consensus exists among agencies that applicants for renewal permits have little incentive to respond promptly to agency requests once the permit application shield has been secured.<sup>5</sup> SPM applicants, who must have a permit in order to operate their proposed changes, tend to respond more quickly.

A limited ACR may also prompt agencies to quickly designate applications as administratively complete and defer questions about application content and accuracy until later in the issuance process. BAAQMD, MPCA, and OR DEQ cited an incomplete ACR and the

<sup>5</sup> The permit application shield, which comes into effect once a renewal application is submitted on time and deemed complete, allows a source to continue to operate legally after its permit expires until such time as the permit agency takes final action on its application.

practice of deeming incomplete applications “administratively complete” as factors that *almost always* or *often* contribute to agencies having to solicit more information from applicants during the technical review or while drafting renewals or SPMs; MDE, NJDEP, and TCEQ identified these factors as sometimes contributing to the need to solicit more information from applicants. Agencies that conduct limited or combined ACRs reported the highest proportion of renewal applications, more than 75%, found to be incomplete during their technical review. Compared to renewal applications, a smaller proportion of SPM applications deemed complete are determined subsequently to be incomplete; half the agencies reported that fewer than 25% of their SPM applications are missing essential information.

### **Technical Review and Permit Drafting – Internal Factors**

Foremost among the internal factors cited by agencies as contributing most to delay are competing non-Title V and Title V workload priorities for permit writers. Permit writers in all 10 agencies have responsibility for drafting a variety of non-Title V permits, e.g., construction permits, minor source operating permits, synthetic minor permits, and general permits, in addition to Title V operating permits. In some states they are also called on to assist with administrative and data management tasks unrelated to permit writing. Although agencies try to balance permit writer workload between Title V permits and non-Title V permits, they admit that Title V permits, particularly renewals, carry a lower priority for writers than construction permits, SPMs, and initial operating permits. Many agencies simply do not have the staff resources available to effectively address backlogs of Title V renewals and SPMs that result from competing priorities.

### **Public Comment Period**

The length of the time in which the public may review and provide comment on a draft permit renewal or SPM is consistent across air permitting agencies, usually comprising 30 days as specified in federal regulations.<sup>6</sup> The amount of public interest in a draft permit, however, can extend that timeframe if the agency must respond to public comments or conduct a public hearing. BAAQMD, MDE, MPCA, OR DEQ, and TCEQ cited the time needed to respond to public comments, on the few occasions when agencies receive them, as a major contributor to delay in the issuance of permit renewals and SPMs. Agencies are required to prepare a response for every comment submitted, regardless of its relevance to the proposed Title V renewal permit or SPM. The timeframe for preparing the document varies with the number and complexity of comments received in addition to the level of review provided by other groups within and external to each agency. Public hearings have an even greater impact on timeliness than the need to respond to comments. Three agencies – MDE, MPCA, and OR DEQ – identified holding

<sup>6</sup> OR DEQ has established a 35-day public comment period.

public hearings as a factor that significantly delays the issuance of permit renewals and SPMs. For OR DEQ holding public hearings *almost always* contributes to delay.<sup>7</sup> Even agencies for which public hearings are a rare occurrence, acknowledge the additional time they require.

## **EPA Review**

Overall, permitting agencies do not perceive the 45-day EPA review period as compromising the timely issuance of permit renewals and SPMs. A majority of agencies – BAAQMD, CT DEP, KDHE, MPCA, MDE, and TCEQ – conduct their public comment period concurrently with EPA’s review; FL DEP has recently initiated concurrent review although it has not used it for any permit renewals or SPMs to date. Even OR DEQ and UT DEQ, agencies that currently utilize sequential review, have established agreements with Regions X and VIII, respectively, under which EPA can elect to complete its review within a few days or weeks for non-controversial permits. Still, some agencies identified circumstances that impact the timeframe in which EPA completes its review leading to delay in the issuance of permit renewals and SPMs. One such circumstance occurs when agencies must switch from concurrent to sequential review. BAAQMD, MPCA, and TCEQ ranked this occurrence as a significant contributor to delay. The contribution of EPA’s review to delay may occasionally result from EPA’s own actions. MPCA and OR DEQ both indicated that waiting for EPA to provide comments on draft permit renewals and SPMs can significantly impact the timeliness of permit issuance.

## **Actions to Increase the Efficiency and Effectiveness of Issuances**

The final evaluation question asks what actions federal, state, or local agencies can take to increase the efficiency and effectiveness of the issuance process for Title V permit renewals and significant permit modifications. The suggestions provided by agencies include strategies that they have already employed and specific recommendations for how EPA can help them mitigate delay. The more innovative strategies identified in the evaluation are listed below.

### **Administrative Review and Application Completeness**

- **Streamlined Application Forms and Support Documents.** Many agencies have updated their application forms to include questions and checklists on CAM and MACT applicability. For example, TCEQ developed a Decision Support System (DSS) to assist facilities with preparing their applications and its permit writers with reviewing applications. The DSS consists of a series of flow charts that help facilities determine all applicable rules, including MACT options, for each emissions unit. The DSS is available at the TCEQ website and is tied into the agency’s electronic application forms.<sup>8</sup> TCEQ also developed a CAM guidance document containing a

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<sup>7</sup> FL DEP initially reported that public hearings *often* contribute to delay but later opted to withdraw its response to be consistent with the agency’s definition of the term “public hearing.” A public hearing is a step in the litigation process initiated by facilities. FL DEP’s equivalent to a public hearing, called a “public meeting,” denotes an informational workshop conducted by the agency during the public comment period, and rarely impacts timely permit issuance.

<sup>8</sup> Located at: [http://www.tceq.state.tx.us/permitting/air/nav/air\\_supportsys.html](http://www.tceq.state.tx.us/permitting/air/nav/air_supportsys.html).

list of pre-approved CAM options that applicants can choose from when preparing their plans.<sup>9</sup> After making their preliminary selection, applicants can work with permit writers later in the permit-drafting step to identify the most appropriate option.

- **Combined Administrative and Technical Review.** Both TCEQ and FL DEP conduct their administrative and technical review of permit applications at the same time. Through this integrated approach, the agencies base their completeness determinations on a more thorough review of application content rather than administrative details. The combined review has the advantage of reducing the number of times permit writers have to review applications, solicit additional information from applicants, and wait for applicants to respond. For example, once the agency deems a renewal application incomplete, it effectively delays the onset of the permit application shield. Such a delay may provide additional incentive for applicants, particularly those with permits close to expiration, to submit complete applications from the start or respond promptly to agency solicitations for more information.

### Technical Review and Permit Drafting

- **Increased Staff Resources Dedicated to Title V Permits.** MPCA has initiated a number of creative approaches to increase the number of permitting staff dedicated to Title V permits and the proportion of time spent by existing staff on non-Title V permits. The agency's primary efforts consist of reducing the level of competing demands on permit writers by maximizing the efficiency of its authorization process for construction permits and expanding its staffing resources. MPCA has seen the issuance cycle time for construction permits decrease following implementation of its Six Sigma Project in January 2005.<sup>10</sup> To counter its high rates of staff attrition, the agency has begun using Title V fees to hire unclassified workers to fill immediate vacancies and has secured temporary funds to pilot a program to employ and train engineering students as-needed. MPCA also provides existing permit writers the opportunity to earn overtime pay through a state-funded compensation program and a separate applicant fund established to accelerate the processing of construction permits.

KDHE has taken steps to address current and future staffing levels for Title V permit writers. These include hiring a full-time recruiter and conducting an aggressive recruitment effort on college campuses. The agency is also addressing staff retention by developing a formal training policy for existing permit writers.

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<sup>9</sup> Located at, [http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title\\_V/compliance.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title_V/compliance.pdf).

<sup>10</sup>MPCA embarked on the Six Sigma Process Improvement Initiative to increase the efficiency and effectiveness of its agency processes. Information on MPCA's Six Sigma project for air construction permits is located on EPA's website, <http://www.epa.gov/lean/minnesota.htm>. The 2004 *MPCA Quality Management Plan* can be obtained from the MPCA website, <http://www.pca.state.mn.us/publications/reports/qmp.pdf>.

- **Workload Management and Monitoring.** To ensure that its permit writers have predictable and consistent workload, KDHE is attempting to limit the number of Title V Permits issued each year to 20% of its Title V facilities.

MPCA has implemented standard procedures to guide project management and team communication for the purpose of helping stakeholders in the permitting process (e.g., agency management, legal counsel, other permit writers, technical support staff, and EPA) anticipate and act in accordance with preferred issuance timeframes.

- **Standardized Permit Conditions and Support Documents.** FL DEP, MDE, MPCA, and TCEQ have developed standardized permit language and conditions to streamline permit drafting. MPCA permit writers use templates to facilitate their technical review and the preparation of statements of basis, fact sheets, and public notices. Permit writers at TCEQ use the DSS flowcharts to determine applicable rules.

### **Public Comment Period**

- **Public Outreach and Participation.** Both MDE and MPCA have taken an active role in addressing public concerns about Title V permits. If not addressed, these concerns can generate many adverse comments during the public comment period and lead to requests for public hearings. MPCA has initiated a formal Community Involvement Project (CIP) to improve community outreach and public participation in the permitting process. Under the CIP, permitting staff screen incoming Title V applications to identify facilities and situations with heightened stakeholder interest. MPCA then works with these applicants to discover community concerns before a draft permit is issued and initiate a constructive dialogue with community members and other interested parties about their concerns. The CIP encourages facilities to assume responsibility for conducting community involvement activities that build awareness about facility operations, restore trust, and facilitate problem solving.

MDE permitting staff attend community meetings and utilize alternate dispute resolution methods to address stakeholder concerns. The agency also encourages facilities to conduct outreach to members of the community prior to submitting their permit renewal and SPM applications.

- **Response to Comments.** MDE and TCEQ have developed comment response libraries to facilitate the rapid preparation of responses to frequently submitted comments.

## **EPA Review**

- **Communication with EPA.** In an effort to improve EPA responsiveness during its review of proposed permits, MPCA communicates upcoming permitting issues and shares relevant information on permit applications for which sequential review is anticipated with Region V during monthly calls.

KDHE has established an agreement with EPA Region VII that requires the Region to notify the agency within seven days if it will review a permit or not.

## **Agency Recommendations for EPA**

In addition to identifying their own strategies, agencies recommended actions that EPA could implement to help improve the timeliness of permit renewal and SPM issuance. Their recommendations generally reflect agency concerns about delays resulting from facilities submitting incomplete applications, which require extensive agency follow-up and input from EPA. A majority of recommendations direct EPA to act more expeditiously in response to agency requests for assistance, or when completing its review of proposed permits. This reflects agency frustration over inconsistencies in the speed with which EPA offices give feedback or communicate their intentions.

Agency recommendations pertaining to the availability of information resources and regulatory clarity underscore the confusion and difficulties that agency permit writers confront when attempting to interpret regulatory requirements such as CAM and MACT on behalf of facilities. They may also signify a lack of agency awareness about the technical assistance available from EPA or agency dissatisfaction with existing guidance. Agency calls for EPA to expand its CAM resources to include a “one-stop shop” for CAM plans and more CAM training opportunities for facilities and consultants suggest that EPA’s current efforts could be improved.

## **RECOMMENDATIONS**

Based on our analysis of the collected data and conversations with agencies and EPA staff, we offer the following recommendations to the OAQPS’ Operating Permit Group for ways that EPA can facilitate the timely issuance of permit renewals and SPMs.

**Recommendation 1: Consider offering more direct technical assistance and guidance to the regulated community and state and local air permitting agencies on CAM and regulatory applicability.**

Agencies pointed to incomplete permit applications and the subsequent appeals to, and negotiations with, applicants to obtain required information, as primary contributors to delay. They further identified deficiencies in CAM plans and resultant applicant misinterpretations of regulatory requirements as the chief cause of application incompleteness. In light of these findings, and the agencies’ own recommendations, OAQPS should consider ways to expand its technical assistance, including the following:

- **Provide more training opportunities for permitted facilities, consultants, and agency permit writers on CAM and MACT.** EPA-sponsored training for permitted facilities and permit writers would ensure that applicants (and their consultants) have the specialized knowledge needed to prepare adequate CAM plans or make sound regulatory applicability determinations in their applications.
- **Update guidance on regulatory requirements and applicability.** The development of guidance targeted at the preparation of regulatory determinations for permit applications would serve to both complement training programs for permittees and further assist agency permit writers during the application review and permit drafting steps in the issuance process.
- **Develop more comprehensive and useful information resources for CAM.** Currently, the organization and identification of CAM documents on OAQPS' Emission Measurement Center (EMC) web site makes finding example CAM plans and supporting guidance difficult. OAQPS could facilitate more direct access to existing documents by creating a user-friendly, searchable interface or database from which permittees and permit writers could select the information most pertinent to a particular source.

**Recommendation 2: Consider developing guidelines for EPA Regions that clarify the authority of state and local permitting agencies to utilize concurrent EPA review and the circumstances under which sequential review is warranted.**

Given the positive impact of concurrent review on permit issuance timeframes, OAQPS could take steps to facilitate its adoption by state and local agencies. Guidance that clarifies and/or establishes the authority of all EPA regions to approve concurrent review would provide the backing needed by the Regions to promote its use by more agencies. The guidance should also clarify the circumstances that may arise during the public comment period which would necessitate switching to a sequential review, as well as, establish broader performance goals for timely Regional review when a sequential review is required.

**Recommendation 3: Consider adopting protocols to promote greater EPA responsiveness to state and local permitting agency requests for input or assistance.**

Additional training opportunities, expanded technical assistance, and improved guidance aimed at the regulated community should ultimately reduce agency reliance on EPA for regulatory interpretation; however, situations will continue to arise when agencies will require input from EPA Regions and/or OAQPS during the selection of applicable monitoring requirements and for MACT, NESHAP, and NSPS determinations. One way that OAQPS could help promote responsiveness is to develop internal protocols or procedures that establish optimal timeframes for its staff and EPA Regional staff to address agency appeals and requests for assistance.

**Recommendation 4: Consider establishing a clearinghouse of innovative Title V permitting practices to facilitate the exchange of ideas across EPA Regions and state and local air permitting agencies.**

As part of an effort to upgrade its permit-related technical assistance and outreach, OAQPS could develop a web-based portal containing links to a clearinghouse of innovative permitting practices adopted by agencies and EPA Regions, in addition to CAM plans and guidance on regulatory interpretation and applicability. Such a clearinghouse could include comprehensive descriptions and agency contact information for the strategies identified in this evaluation as well as for other approaches to enhance Title V permitting efficiency that have been employed by the broader population of agencies and EPA Regions. To facilitate implementation of these best practices, OAQPS could also provide technical assistance to agencies to help them assess the appropriateness and feasibility of each strategy.

**POTENTIAL CRITERIA FOR EVALUATING STRATEGY FEASIBILITY**

We recognize that agencies interested in pursuing the strategies highlighted in this evaluation may first want to determine which are the most useful given their particular circumstances. To help agencies make this determination, we have identified a number of possible criteria that agencies could use to evaluate the feasibility of implementing a particular strategy.<sup>11</sup>

As a first step in the process of identifying an appropriate strategy, agencies should identify where delay occurs in their permit issuance process and the factors that contribute to this delay. Agencies should then consider the kinds of agency inputs that may be needed to implement the strategy. In addition to direct costs, such as labor, materials, and training, agencies may want to consider the institutional changes and external partnerships that may be required to support the strategy's implementation. Agencies may also benefit from investigating existing programs initiated to improve permitting efficiencies or facility performance that could be expanded or adapted for use in Title V permitting. Finally, agencies should keep in mind the expected short- and long-term outcomes each strategy will likely produce.

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<sup>11</sup>Agencies may identify other criteria that are more germane to their permitting programs and particular circumstances.

In 1992, the U.S. Environmental Protection Agency promulgated regulations for implementing state air quality operating permit programs authorized under Title V of the 1990 Clean Air Act Amendments (“the Act”).<sup>1</sup> The main goal of Title V is to reduce violations of the Act and facilitate the enforcement of regulations aimed at the largest emitters of air pollutants. Title V requires states to issue operating permits to major stationary sources of regulated air pollutants.<sup>2</sup> While these operating permits do not impose substantive new requirements on sources, they improve compliance by clarifying all the requirements that apply to a source in a single, federally enforceable document.

EPA expected that state and local air pollution control agencies (“agencies”) would have issued all their initial Title V operating permits by the end of 2000. However, an evaluation of the Title V program conducted by EPA’s Office of the Inspector General in 2002 indicated that approximately a third of initial permits had not yet been issued as of December 31, 2001 (U.S. EPA, 2002).<sup>3</sup> The dedication of agency resources toward managing the issuance backlog for this subset of initial permits has, in turn, impacted the timely issuance of permit renewals, which started to become due five years after the majority of initial permits had been issued, as well as significant permit modifications (SPMs). According to preliminary internal data compiled by EPA’s Office of Air and Radiation (OAR), less than one-third of permit renewals are issued within the regulatory timeframe of 18 months from the receipt of a complete application.<sup>4</sup> Delays in renewal issuance concern EPA because they postpone facility implementation of enhanced monitoring procedures required by the Compliance Assurance Monitoring (CAM) rule and slow emissions reductions that would result from improved monitoring.<sup>5</sup>

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<sup>1</sup> The Act authorizes state air pollution control agencies to implement programs for issuing operating permits in accordance with Title V. The term “state” also includes local air pollution control agencies that have received delegated authority from EPA to implement Title V programs.

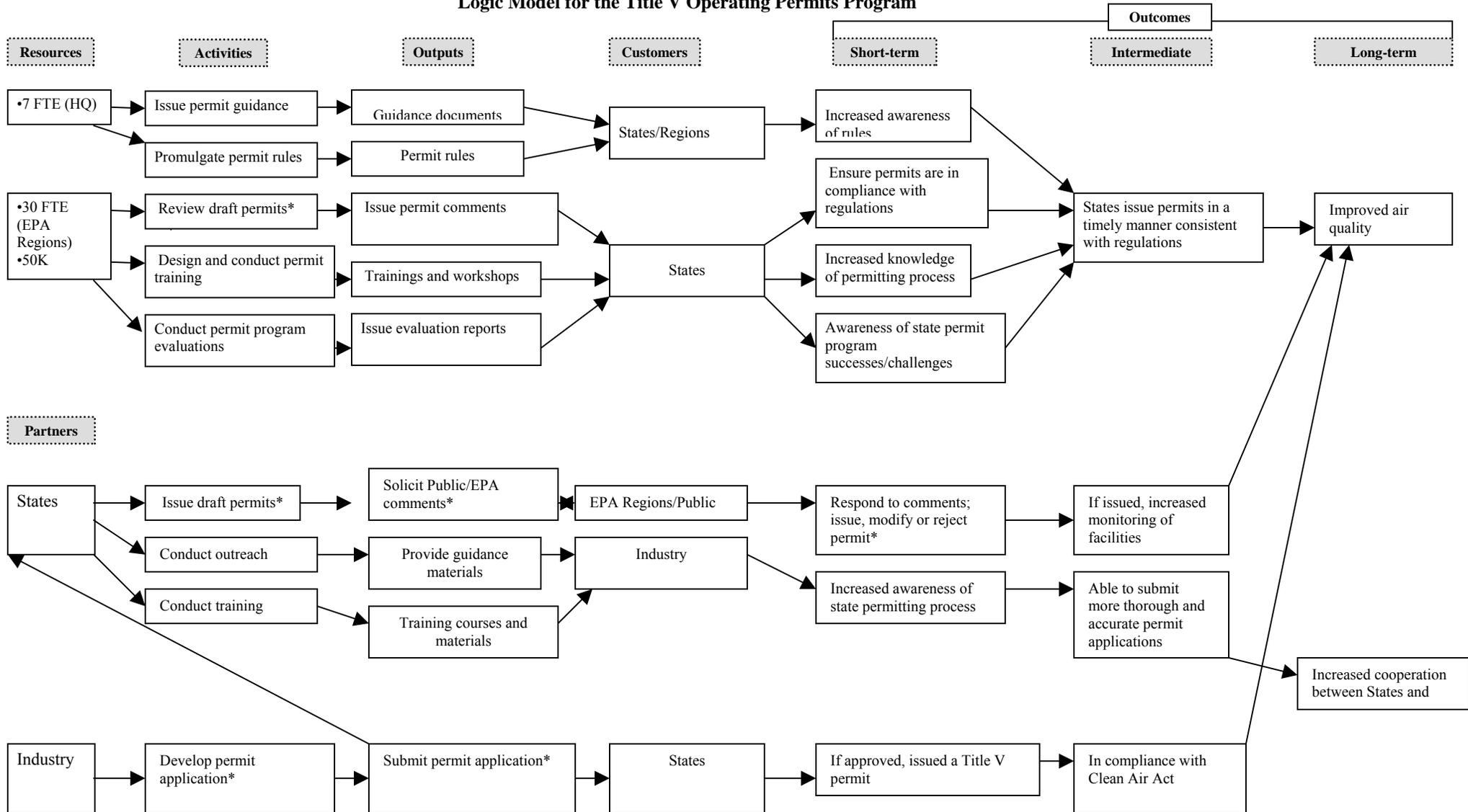
<sup>2</sup> In accordance with rules promulgated in 40 CFR Part 70.

<sup>3</sup> U.S. EPA. 2002. *EPA and State Progress in Issuing Title V Permits*. Office of the Inspector General. Chicago, IL. EPA Report No. 2002-P-00008. The Act requires state and local agencies to issue all their initial permits within three years of Title V program approval. As of December 31, 2001, 89 of 112 state and local agencies with approved programs still had initial permits to issue.

<sup>4</sup> 40 CFR Part 70.7(a)(2) requires the permitting authority to “take final action on each permit application (including a request for permit modification or renewal) within 18 months...after receiving a complete application.”

<sup>5</sup> 40 CFR Part 64.

**Figure 1-1  
Logic Model for the Title V Operating Permits Program**



\*See OAQPS Process Model

Eternal Factors: State laws, State budget process, State politics, EPA permit rules, CAA, and demand for permit writers by industry.

In light of the findings from these early assessments, the Operating Permit Group in EPA's Office of Air Quality Planning and Standards (OAQPS) is interested in evaluating the efficiency and timeliness with which agencies issue permit renewals and SPMs. Results from this evaluation will provide insights into how the Title V program is working and the ways in which it could be improved. It will also be used to inform the efforts OAQPS is making to ensure progress toward its annual Performance Assessment Rating Tool (PART) targets for the Title V program. The targets include issuing 75 percent of initial permits (and permit renewals) and 85 percent of SPMs within the regulatory deadline. In addition, the results of this project will help OAR ensure progress toward its Government Performance and Results Act (GPRA) goals and national performance measures for issuing initial permit renewals.

## OVERVIEW OF THE TITLE V PERMIT PROGRAM

EPA's Title V Permit Program provides the framework and guidelines to support the implementation of state and local operating permit programs. In 40 CFR Part 70, EPA established the specific requirements and responsibilities of state and local agencies with approved programs, including: provisions for the submission and approval or disapproval of permit applications; permit content; issuance procedures for initial permits, renewals and modifications; and the review of proposed permits by EPA and affected states.

To illustrate the various components of the Title V Permit Program, OAQPS developed a logic model, i.e., a graphical representation of the relationships between program inputs, outputs, and intended outcomes (see Figure 1-1). A logic model synthesizes the key activities of a program into a picture of how it is expected to work. A program logic model helps determine the degree to which a program's activities and other related inputs affect the expected outcomes. In addition, it can help identify potential indicators or measures to help track performance. Key components of a logic model include the following:

- **Resources** are the basic inputs of funds, staffing, and knowledge dedicated to the program. Under the Title V Program, resources include operating permitting staff at OAQPS and EPA Regions as well as state and local air permitting agencies.
- **Activities/Outputs** are the specific actions taken to achieve program goals and the immediate products that result. Under the Title V Program, these products include the development of rules and guidance documents, permit review and issuance, and the preparation of permit applications.
- **Customers/Stakeholders** are the users of the activities and outputs (fiscal, technical, administrative) provided. Title V customers include EPA Regions, state and local agencies, and industry.
- **Short-Term Outcomes (Knowledge/Attitude)** are changes in awareness, attitudes, understanding, knowledge, and skills resulting from program outputs. Title V Program outputs produce increased awareness of the permit issuance requirements and greater knowledge of the permitting process on the part of state and local agencies and industry.

- **Intermediate Outcomes (Behavior)** involve changes in behavior that are broader in scope than short-term outcomes. Intermediate outcomes often build upon the progress achieved in the short-term. Increased awareness of permitting program requirements and procedures under Title V leads to the preparation of more accurate permit applications, the timely issuance of final permits, and greater industry compliance.
- **Long-Term Outcomes (Condition)** parallel the overarching goals of the program and are the environmental improvements, and public health benefits that flow from the behavioral, procedural, and operational changes. The goals of the Title V Permit Program include improved air quality but also increase cooperation between states and industry.
- **Partners** are the parties/organizations involved with the Title V Program. They include state and local agencies that issue operating permits and the industries that are regulated by them.
- **External Factors** are not directly controlled by the program or its entities, but may affect program performance. For example, state legislative procedures and budgetary constraints may reduce resources available to issue permits on time.

## EVALUATION QUESTIONS

OAQPS received evaluation funding support from EPA's Office of Policy, Economics, and Innovation (OPEI) through its Improving Results Competition, and contracted with Industrial Economics, Inc. ("IEc," or "we") to help conduct this evaluation. In so doing, IEc also attempted to discern innovative approaches employed by agencies to reduce delays at different steps of the issuance process. IEc collected and analyzed information obtained from agency responses to a permit timeliness questionnaire and follow-up interviews, as well as from supplemental materials provided by agencies upon request.

Based on the logic model and the needs of the various audiences, OAQPS and IEc identified the following evaluation questions. At the end of each question we note which element of the logic model is addressed.

- 1) What are the performance characteristics, (e.g., timeframes and procedures) in each step of state and local processes for issuing Title V permit renewals and significant permit modifications? (Activities/Outputs)
- 2) What are the root causes or factors that contribute to the performance characteristics associated with the issuance process for Title V permit renewals and significant permit modifications? (Resources, Activities/Outputs, and Partners)
- 3) What actions could federal, state, or local agencies take that would increase the efficiency and effectiveness of the issuance process for Title V permit renewals and significant permit modifications? (Outcomes)

The target audience for this evaluation is the Operating Permit Group whose members seek to better understand the prevalence of delay in the final issuance of permit renewals and SPMs and the factors that influence timeliness. Staff at OAQPS and the EPA Regions may also use the results of this report to increase the effectiveness of their roles as providers of technical assistance to agencies during the permitting process and reviewers of proposed permit actions. Finally, state and local agency permit writers and managers with an interest in identifying strategies to improve the efficiency and timeliness of their permitting processes constitute another important audience for this evaluation.

## **STRUCTURE OF THE REPORT**

The remainder of the report is organized as follows:

- Chapter 2 presents the methodology used in this evaluation, and examines the selection of state and local agencies to be studied, the information collection process, and the data analysis plan.
- Chapter 3 presents the evaluation results organized by the three evaluation questions.
- Chapter 4 presents our recommendations to the Operating Permit Group and OAQPS regarding the ways that EPA can facilitate the timely issuance of permit renewals and SPMs as well as promote the innovative strategies implemented by individual agencies to improve the timeliness of permit issuance on a national scale.

This chapter describes the methods IEC utilized to evaluate the issuance process for permit renewals and significant permit modifications (SPMs) under the Title V Permit Program. In supporting this evaluation, IEC reviewed background information provided by EPA and collected and analyzed information obtained from:

- conducting an on-line questionnaire of state and local air permitting agencies (“agencies”) from each EPA Region identified by OAQPS;
- conducting a series of on-site and telephone follow-up interviews with questionnaire respondents in each agency; and
- reviewing supplemental data and documents provided by agencies detailing their permit issuance processes and timeframes.

The following sections detail the specifics of our approach to data collection and analysis.

## **DATA COLLECTION**

### **Air Permitting Agency Selection**

This evaluation is intended as an exploratory assessment of the issuance processes administered for permit renewal and SPMs by a small sample of state and local air permitting agencies. Accordingly, we evaluated the programs from 10 agencies to ensure broad geographic representation in the sample. OAQPS identified each agency based on two criteria: 1) the agency’s willingness to participate in the evaluation, and 2) whether it had issued a large number of initial permits (approximately 100 or more), since these agencies would have more experience processing and issuing permit renewals than those that issued fewer initial permits. We selected a few agencies with fewer than 100 initial permits to achieve greater geographic diversity within a given EPA Region. Table 2-1 lists the agencies selected and the primary contact identified for each.

**Table 2-1 State and Local Air Permitting Agencies Selected to Participate in the Evaluation**

<b>EPA Region</b>	<b>Agency Name</b>	<b>Primary Contact</b>	<b>Follow-up Interview Communication Method</b>
1	State of Connecticut Department of Environmental Protection (CT DEP)	Gary Rose	Conference Call
2	New Jersey Department of Environmental Protection (NJDEP)	Richard Langbein	Conference Call
3	Maryland Department of the Environment (MDE)	Karen Irons	On-site
4	Florida Department of Environmental Protection (FL DEP)	Cindy Phillips	Conference Call
5	Minnesota Pollution Control Agency (MPCA)	Carolina Schutt	On-site
6	Texas Commission on Environmental Quality (TCEQ)	Kim Strong	Conference Call
7	Kansas Department of Health and Environment (KDHE)	David Peter	Conference Call
8	Utah Department of Environmental Quality (UT DEQ)	David Beatty	On-site
9	Bay Area Air Quality Management District (BAAQMD), CA	Dennis Jang	Conference Call
10	Oregon Department of Environmental Quality (OR DEQ)	Mark Fisher	On-site

### **Questionnaire Administration**

IEc, in collaboration with OAQPS, developed a questionnaire to gather information from the permitting staff of the agencies selected. We designed the questionnaire to help us to: 1) understand the overall process for issuing permit renewals and significant permit modifications; 2) get an accurate picture of each agency's permit renewal and significant permit modification process; 3) identify potential barriers to issuing timely renewals and significant permit modifications; and 4) solicit recommendations for developing a plan to expedite agency permit issuance. A copy of the questionnaire is included in Appendix A.

We based the questionnaire on a set of questions developed initially by OAQPS, modifying its content to conform to the three evaluation questions. We also modified the format of the questionnaire to allow for both quantitative and qualitative responses. The questionnaire included a mix of multiple choice, five-point scaled, and open-ended questions organized into five main sections:

- General Programmatic Issues;
- Renewal Application Timeliness and Completeness;
- Drafting Permit Renewals and Significant Permit Modifications;
- Public Comment; and
- EPA Review.

To ensure that the questionnaire would provide the information of interest in the evaluation, we distributed a draft version to the contacts for each agency and EPA Region for review. We modified the questions in response to input received during two conference calls each with five agency contacts and their EPA regional representatives.

IEc administered the questionnaire electronically, allowing respondents to access the instructions and questions from their computer and submit responses via the internet. The online survey offers several advantages over telephone or mail surveys. First, responses were automatically transferred into an Access database as soon as the respondent completed the questionnaire. The online mechanism also provided expediency and facilitated IEC's analysis of the data.

IEc sent an email to agency contacts to confirm their participation and provide them with basic instructions and the link to the questionnaire. We gave the agencies approximately two weeks to review the questionnaire and submit their responses on the website. To ensure that agency responses to the questions reflected the perspective of the entire agency rather than a single individual, we encouraged agency contacts to confer with their colleagues, including permit writers and program managers, about the questionnaire as they prepared their responses. Under normal circumstances, we would have not been able to administer the questionnaire to more than nine agency representatives due to Information Collection Request (ICR) restrictions imposed by the Office of Management and Budget on EPA and other federal agencies; however, we were afforded the opportunity to administer the questionnaire to all 10 agencies and their permitting staffs under the authorization of an existing ICR for the Part 70 Permitting Program.<sup>1</sup>

## **Follow-Up Interviews**

IEc reviewed agency questionnaire responses for completeness and clarity. To address any gaps in information or potential misinterpretation of responses, we developed a set of follow-up questions to discuss with each agency during a subsequent interview. We initially planned to conduct five of these follow-up interviews in person to allow more time for in-depth discussion of questionnaire responses and agency experiences with issuing permit renewals and SPMs. Due to resource and scheduling constraints, we limited our on-site interviews to four agencies that had not recently participated in program evaluations conducted by their respective EPA Regions (see Table 2-1). We conducted the remaining six follow-ups via conference call. The on-site interviews were scheduled to last two hours, the telephone interviews, one hour. OAQPS led the interviews and IEC recorded responses directly into an Access database that we designed for that purpose. As with the questionnaire protocol, we encouraged agency contacts to invite members of their permitting staff to review the follow-up questions and provide their perspective and input during the interview. We also extended an invitation to a representative from each EPA Region's air permitting staff to be present during the interview with its state or local agency. Interviews conducted with FL DEP, KDHE, MDE, MPCA, OR DEQ, TCEQ, and UT DEQ involved more than one member of the agency's permitting staff; interviews with NJDEP also involved a participant from EPA Region II.

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<sup>1</sup> Part 70 ICR (EPA #1587.05).

## **Supplemental Data and Documentation**

In preparation for the follow-up interviews, we requested that each agency also provide us with supplemental information about their issuance processes for permit renewals and SPMs. Specifically, we asked for copies of:

- renewal application reminders mailed to facilities, including application forms or templates, and any background information describing permitting procedures or practices;
- recent data or reports documenting the timeliness of permit renewals and SPMs issued by the agency; and
- any additional documentation supporting the information provided in the agency's questionnaire responses.

A list and description of the supplemental information received from each agency is included in Appendix B. We used the issuance data to analyze the timeliness of permit renewals and SPMs issued by each agency. We used the other documents and background information supplied to verify agency questionnaire responses and fill gaps in agency data remaining after the completion of the interviews.

## **DATA ANALYSIS**

### **Analyses of Qualitative and Quantitative Data**

#### **Qualitative Analyses**

As noted above, we entered data from the on-line questionnaire automatically into an Access database. We also recorded responses to the interview questions directly into the Access database to facilitate the comparison of these data with the questionnaire responses. Although our primary analytical approach was to highlight individual responses for each agency, data from the multiple-choice questions on permit issuance procedures allowed for the computation of counts and other basic descriptive statistics. We grouped responses to the open-ended questions to help categorize similar responses and inform our narrative summaries of trends and key findings across all 10 agencies.

#### **Quantitative**

We conducted a quantitative analysis of the agency-supplied issuance data that involved calculating for each agency: 1) the total number of renewal permits and SPMs issued, 2) the total number of these permits that were issued “late”, i.e., more than 18 months after the receipt of a complete application, 3) the total number of renewal permits and SPMs overdue for issuance, i.e., that had not been issued within the 18-month deadline, 4) the percent of renewal permits and SPMs issued late; and 5) the average number of days to issue permits. A more detailed description of the methods we used in this analysis is included in Appendix C.

In addition to the analyses described above, we conducted an informal analysis of the degree of association between agency actions taken in response to delay in the permit issuance process and the average length of time in which permit renewals and SPMs are issued. We first generated counts of the strategies that each agency reported having implemented to mitigate the factors contributing to delay in permit issuance. We then ran a linear regression analysis of the number of strategies employed by each agency against its calculated average number of days to issue renewals and SPMs to determine if a relationship between the two variables exists, as denoted by a regression coefficient. We conducted this analysis to characterize the degree of association between existing data points, but not to predict agency performance or establish a causal relationship between variables.

### **Agency Review of Data and Analysis**

We solicited additional input from air permitting agency respondents and EPA Regional staff on the draft evaluation results prepared following completion of our analyses. The purpose of this preliminary review was to provide agencies with greater insight into the evaluation and an opportunity to verify the accuracy of the data we used to characterize their performance. Agencies were given 10 business days to review the results and offer written comments. We received written comments from six agencies - BAAQMD, CT DEP, FL DEQ, MDE, MPCA, and TCEQ - and made adjustments to our analyses and findings in response to agency corrections. We also received verbal comments from KDHE that prompted us to re-analyze agency permit issuance data.

### **DATA LIMITATIONS**

To help EPA consider the evaluation's findings, IEc worked with OAQPS and EPA personnel experienced in evaluations and survey methods to interpret the study results. In doing so, we kept several data limitations in mind:

- As discussed above, OAQPS intended this evaluation to be an exploratory assessment of the issuance processes administered for permit renewal and SPMs by a small sample of state and local air permitting agencies. We designed the evaluation methodology to be consistent with the scope and purpose of the study, the small sample size, and resource limits. Although randomized controlled trials can isolate causal effects between program inputs and measured outcomes, resource constraints and ethical considerations often make conducting such studies of government environmental programs difficult. While the non-experimental design we utilized enables us to collect data on agency permit issuance and develop insights into the challenges confronting agencies during the permitting process, the methodology does not allow us to establish causal relationships between program inputs and agency performance or generalize our findings to other state and local Title V programs.
- The introduction of bias in the design and analysis is a concern given the small number of agencies selected for the study sample and the selection methods used. The sample selection process identified a subset of state and local air permitting

agencies that are both representative of all 10 EPA Regions and homogeneous with regard to the number of initial permits issued and level of experience issuing permit renewals and SPMs. Based on these selection criteria, the characteristics and experiences of the 10 agencies in the sample may differ significantly from the majority that was excluded. The limited sample size and targeted sampling approach preclude us from using the results of the evaluation to make inferences about the larger population of air permitting agencies.

- Bias in the data and analysis resulting from agency responsiveness is also a concern given the variation in the quantity of data and level of detail provided by each agency, as well as the number and composition of agency staff who offered input to the questionnaire and follow-up interviews. A few agencies provided lengthy, detailed responses to questions and extensive documentation while others provided more limited answers and very little in the way of supporting data. In one instance, an agency invited its entire permit writing staff to participate in the follow-up interview. Other agencies generally limited participation in the interviews to one or two staff members. It is unclear how this variation may have influenced the accuracy and comprehensiveness of agency data, particularly since we did not ask agencies to document the names and titles of everyone who helped formulate their responses. The participation of an EPA regional representative in one of the follow-up interviews may also have biased agency responses.

This evaluation examines the performance of state and local air permitting agencies (“agencies”) with regard to the timely issuance of Title V permit renewals and significant permit modifications (SPMs). Our results indicate that over the past five years agencies have steadily improved their ability to issue renewal permits and SPMs on time, i.e., within the federal deadline of 18 months (540 days) from the receipt of a complete application.<sup>1</sup> In 2001, agencies issued approximately 68 percent of their permit renewals on time; by 2005, this percentage increased to approximately 94 percent. We noted a similar trend for the proportion of SPMs issued on time. In the same five-year span, agencies also significantly reduced their issuance timeframes for renewal permits and SPMs. Overall, the average time to issue renewal permits fell from 576 days in 2001 to 257 days in 2005, a reduction of approximately 55 percent. The average time to issue SPMs fell by 32 percent from 504 days in 2001 to 342 days in 2005.

Despite these trends, agencies continue to face challenges at various stages in the issuance process that can adversely affect their ability to draft, notice, and finalize renewal permits and SPMs on time. These challenges include internal factors such as competing priorities for agency staff, as well as external factors such as the tendency of applicants to submit incomplete applications and engage in negotiations with agencies over permit terms. A number of agencies have implemented policies or practices to address these various challenges and have identified ways for EPA to assist them in their efforts. This chapter discusses these challenges and specific actions taken by agencies to address them. The discussion is organized by the three overarching evaluation questions outlined in Chapter 1:

- 1) What are the performance characteristics, e.g., timeframes and procedures, in each step of state and local processes for issuing Title V permit renewals and significant permit modifications?
- 2) What are the root causes or factors that contribute to the performance characteristics associated with the issuance process for Title V permit renewals and significant permit modifications?

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<sup>1</sup>40 CFR Part 70.7(a)(2) directs air permitting agencies to “take final action on each permit application (including a request for permit modification or renewal) within 18 months, or such lesser time approved by the Administrator, after receiving a complete application.” The Office of Management and Budget (OMB) adopted this regulatory deadline as a performance measure in its Performance Assessment Rating Tool (PART) review of EPA’s Air Quality and Permit Program conducted in 2005 (available at <http://www.whitehouse.gov/omb/expectmore/detail.10004377.2005.html>). EPA has interpreted the PART measure as 18 months from the date on which an application is received to the date a final permit is issued.

- 3) What actions could federal, state, or local agencies take that would increase the efficiency and effectiveness of the issuance process for Title V permit renewals and significant permit modifications?

## **PERFORMANCE CHARACTERISTICS AND PROCESSES FOR PERMIT ISSUANCE**

The evaluation's first objective is to better understand state and local agency procedures as part of the overall process for issuing renewals and SPMs, as well as the timeframes in which agencies complete permit issuances based on these procedures. This section presents issuance data that provide insights into agency procedures and context for the subsequent discussion of factors influencing timeliness in this report. We employed two approaches to ascertain agency processes and performance. In the first, we utilized agency responses to questions about issuance procedures to characterize the basic steps in the issuance process and estimate the range of timeframes for each step (see Tables 3-1 and 3-2). In the second, we used agency-supplied data on actual experiences related to rates of late issuance and issuance times for permit renewals and SPMs (see Appendix E and Figures 3-1 through 3-4).

### **Procedural Timeframes for Permit Issuance**

With a few exceptions, the air permitting agencies follow the same basic protocol for the issuance of Title V permit renewals and SPMs outlined in the logic model in Chapter 1. (Details on each agency's procedures and timeframes are included in Appendix C.) These include the following steps:

- 1) The Title V source submits an application for a permit renewal or SPM (within six months of permit expiration for renewals). All 10 agencies reported receiving the majority of permit renewal applications on time, i.e., within six months of permit expiration. A number of agencies have taken additional steps to ensure that the applications they receive are complete as well as timely. MDE, MPCA, NJDEP, and OR DEQ send facilities the forms and/or instructions needed for completing their applications. Other agencies, such as BAAQMD, CT DEP, KDHE, TCEQ, and UT DEQ refer applicants to their websites where forms and instructions are provided.
- 2) The agency receives the application, conducts an administrative review, and makes a completeness determination. All 10 agencies have adopted the federal 60-day deadline for notifying facilities that their renewal applications are missing information before they are automatically deemed administratively complete.<sup>2</sup> A majority of agencies, including BAAQMD, KDHE, MDE, NJDEP, OR DEQ, and UT DEQ, perform their completeness determinations earlier. FL DEP and TCEQ do not perform an administrative completeness review (ACR) independently from their technical review. FL DEP conducts its administrative and technical review during the initial 60-day completeness period. At the TCEQ, applications are automatically deemed administratively complete within 60 days. The ACR conducted by MPCA is

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<sup>2</sup> 40 CFR Part 70.7(a)(4).

limited to a cursory review of the components elements of the application forms, so most applications are deemed administratively complete.

- 3) If the application is incomplete, the agency notifies the applicant that additional information is needed to deem the application complete.
- 4) If the application is complete, the agency prepares a draft permit.
- 5) The agency notices the draft permit, responds to any comments received during this period, and holds public hearings, if requested.
- 6) The agency submits the draft permit to EPA for review. BAAQMD, CT DEP, KDHE, MDE, MPCA, TCEQ have implemented the practice of concurrent review whereby EPA begins its 45-day review of a draft permit simultaneously with the start of the public comment period. FL DEP has recently initiated concurrent review although it has not used it for any permit renewals or SPMs to date.

Tables 3-1 and 3-2 present the minimum and maximum timeframes we estimated for each step in the issuance process for permit renewals and SPMs (measured from application receipt to final permit issuance). We based these estimates on composite data obtained from permitting agency questionnaire responses, follow-up interviews, and supplemental materials provided by each agency. The minimum and maximum numbers reflect variation among agencies in the timing and procedural composition of each step, e.g., an abbreviated or integrated ACR. To construct these timeframes we assumed the following:

- All agencies make their completeness determinations within 60 days in accordance with the federal requirement, regardless of whether they conduct a detailed ACR or a combined administrative/technical review prior to permit drafting.
- All applications require applicants to supply additional information to enable permit drafting; the minimum and maximum number of days are based on agency deadlines for receipt of requested information and reported average applicant response times.
- Only a few draft permits receive public comments during the public comment period. Fewer require a public hearing. The minimum number of days in this period includes the time to notice the draft and respond to comments; the maximum number of days includes the above plus additional time to notice, conduct, and respond to comments made during a public hearing.
- The timeframe for the EPA Review includes the time to conduct a concurrent or sequential EPA review. For most agencies that use concurrent review, the minimum time is zero days, since the review is subsumed within the public comment period.

Using the minimum number of days for each procedural step, we estimated the issuance time for permit renewals to be less than 18 months, ranging from 8.6 to 17.6 months. For SPMs, it ranges from 6.2 to 12.6 months. This suggests that all agencies have the capacity to process

applications and issue permits within the federally mandated timeframe. We estimated the maximum renewal permit issuance timeframes to exceed 18 months for all but three agencies; the mean timeframe is 22.6 months. Conversely, even under the longest time estimates, all but two agencies have the capacity to issue SPMs within 18 months; the mean timeframe is 17.0 months.

A closer examination of the average minimum and maximum timeframes for permit renewals and SPMs suggests that the time needed to draft permits and conduct public hearings has a greater impact overall on timeliness than other steps in the issuance process. This finding is supported by agency rankings of the factors that contribute most to delay. As Tables 3-1 and 3-2 show, the difference in the number of days it takes agencies to begin and complete drafting permit renewals compared to SPMs also suggests that, all else being equal, the drafting step presents more challenges for renewals. The factors that contribute to delay during these steps in the process are discussed in greater detail in the following section.

Table 3-1 Estimated Agency Minimum and Maximum Time to Issue a Permit Renewal<sup>a,b,c</sup>

Agency	Days to Determine Initial Completeness		Days to Receipt of Additional Information		Days to Begin Drafting		Days to Complete Draft Permit		Days to Conduct Public Comment Period		Days to Complete EPA Review		Total Days from Application Receipt to Final Issuance		Total Months from Application Receipt to Issuance		Agency Permit Issuance Deadline	Conduct Detailed ACR	Use Concurrent Review
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max <sup>1</sup>	Min	Max	Min	Max	Min	Max			
MPCA	<b>60</b>	60	<b>30</b>	45	180	<b>180</b>	181	365	61	145	15	45	527	840	<b>17.6</b>	<b>28.0</b>	18 months <sup>3</sup>	No	Yes
UT DEQ	<b>7</b>	60	31	60	31	60	365	548	45	75	0	45	479	848	<b>16.0</b>	28.3		Yes	No <sup>6</sup>
CT DEP	60	60	31	45	91	180	181	365	90	150	0	45	453	845	15.1	28.2	12 months <sup>2</sup>	Yes	Yes
MDE	<b>12</b>	60	<b>30</b>	60	91	180	181	365	105	<b>195</b>	0	45	419	905	<b>14.0</b>	<b>30.2</b>	18 months <sup>2</sup>	Yes	Yes
BAAQMD	30	60	30	<b>60</b>	61	90	181	365	60	<b>120</b>	0	45	362	740	12.1	<b>24.7</b>	18 months <sup>3</sup>	No	Yes
FL DEP	<b>60</b>	60	<b>90</b>	150	<b>30</b>	30	<b>60</b>	60	67	<b>88</b>	55	55	362	443	<b>12.1</b>	<b>14.8</b>	90 days <sup>4</sup>	No <sup>8</sup>	No <sup>5</sup>
OR DEQ	30	60	15	30	61	90	181	240	51	<b>125</b>	5	45	343	590	11.4	<b>19.7</b>		Yes	No
TCEQ	60	60	30	45	<b>30</b>	30	90	90	90	<b>150</b>	0	45	300	420	<b>10.0</b>	<b>14.0</b>	330 days <sup>2</sup>	No	Yes
KDHE	7	60	15	30	91	180	91	180	55	120	0	45	259	615	8.6	20.5	180 days <sup>2</sup>	Yes	Yes
NJDEP	<b>1</b>	60	<b>15</b>	30	61	90	91	180	46	120	45	45	259	525	<b>8.6</b>	17.5		Yes	No
<b>Averages<sup>7</sup></b>	<b>33</b>	60	<b>32</b>	56	73	111	160	276	67	126	12	46	376	677	12.5	22.6			

**Notes:**  
<sup>a</sup>IEc based its estimates on responses to the questionnaire, follow-up interview questions, and data from supplemental materials.  
<sup>b</sup>Agencies are sorted by the minimum total months from application receipt to issuance, from highest to lowest.  
<sup>c</sup>Maximum totals in **bold** may be larger if the agency reported a range of days that equals or exceeds a given number. Minimum totals in **bold** may be lower if the agency reported a range of days that equals or is less than a given number.  
<sup>1</sup>Includes timeframe for components under the minimum scenario (notice publication, public comment, response to comments) plus the time to notice and conduct a public hearing.  
<sup>2</sup>From the date of receipt of application.  
<sup>3</sup>From the date of receipt of complete application.  
<sup>4</sup>Issuance of draft permit from completeness determination date.  
<sup>5</sup>Although FL DEP is now using concurrent review for permit renewals and SPMs, the agency did not use it for permit renewals and SPMs included in the timeframe of this review.  
<sup>6</sup>Although officially sequential, EPA conducts an early review during the public comment period, completing it within 2-3 weeks for some permits.  
<sup>7</sup>Rounded to the nearest day.  
<sup>8</sup>FL DEP does not conduct a discrete ACR but rather a combined administrative and technical review.

**Table 3-2 Estimated Agency Minimum and Maximum Time to Issue a Significant Permit Modification<sup>a,b,c</sup>**

Agency	Days to Determine Initial Completeness		Days to Receipt of Additional Information		Days to Begin Drafting		Days to Complete Draft Permit		Days to Conduct Public Comment Period		Days to Complete EPA Review		Total Days from Application Receipt to Final Issuance		Total Months from Application Receipt to Issuance		Agency Permit Issuance Deadline	Conduct Detailed ACR	Use Concurrent Review
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max <sup>1</sup>	Min	Max	Min	Max	Min	Max			
CT DEP	60	60	31	45	61	90	181	365	45	105	0	45	378	710	12.6	23.7	12 months <sup>2</sup>	Yes	Yes
BAAQMD	30	60	30	<b>60</b>	61	90	181	365	60	<b>120</b>	0	45	362	740	12.1	<b>24.7</b>	18 months <sup>3</sup>	No	Yes
FL DEP	<b>60</b>	60	<b>90</b>	150	<b>30</b>	30	<b>60</b>	60	67	<b>88</b>	55	55	362	443	<b>12.1</b>	<b>14.8</b>	90 days <sup>4</sup>	No <sup>9</sup>	No <sup>5</sup>
TCEQ	60	60	15	30	<b>30</b>	30	90	90	90	<b>150</b>	0	45	285	405	<b>9.5</b>	<b>13.5</b>	330 days <sup>2</sup>	No	Yes
MPCA	<b>60</b>	60	<b>15</b>	30	<b>30</b>	30	91	180	61	145	15	45	272	490	<b>9.1</b>	16.3	18 months <sup>8</sup>	No	Yes
KDHE	7	60	15	30	61	90	91	180	55	120	0	45	229	525	7.6	17.5		Yes	Yes
NJDEP	1	<b>60</b>	15	30	31	60	91	180	<b>45</b>	105	45	<b>45</b>	228	480	<b>7.6</b>	<b>16.0</b>		Yes	No
OR DEQ	30	60	<b>15</b>	15	<b>30</b>	30	91	180	51	<b>125</b>	5	45	222	455	<b>7.4</b>	<b>15.2</b>		Yes	No
UT DEQ	<b>7</b>	60	15	30	<b>30</b>	30	<b>90</b>	90	45	75	0	45	187	330	<b>6.2</b>	11.0		Yes	No <sup>6</sup>
<b>Averages<sup>7</sup></b>	35	60	27	47	40	53	107	188	58	115	13	46	281	509	9.4	17.0			

**Notes:**

<sup>a</sup>IEc based its estimates on responses to the questionnaire, follow-up interview questions, and data from supplemental materials.

<sup>b</sup>Agencies are sorted by the minimum total months from application receipt to issuance, from highest to lowest.

<sup>c</sup>Maximum totals in **bold** may be larger if the agency reported a range of days that equals or exceeds a given number. Minimum totals in **bold** may be lower if the agency reported a range of days that equals or is less than a given number.

<sup>1</sup>Includes timeframe for components under the minimum scenario (notice publication, public comment, response to comments) plus the time to notice and conduct a public hearing.

<sup>2</sup>From the date of receipt of application.

<sup>3</sup>From the date of receipt of complete application.

<sup>4</sup>Issuance of draft permit from completeness determination date.

<sup>5</sup>Although FL DEP is now using concurrent review for permit renewals and SPMs, the agency did not use it for permit renewals and SPMs included in the timeframe of this review.

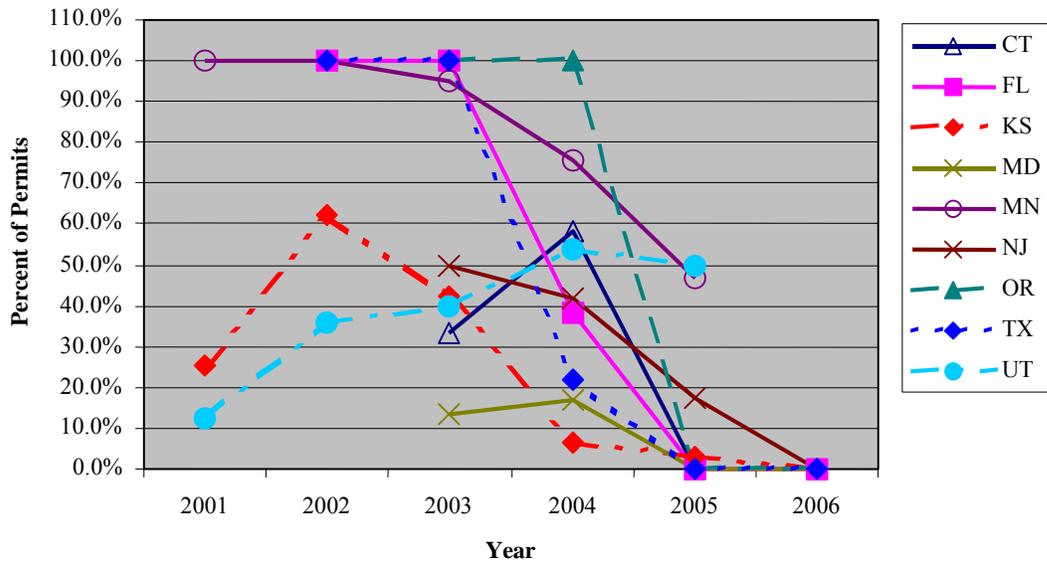
<sup>6</sup>Although officially sequential, EPA conducts an early review during the public comment period, completing it within 2-3 weeks for some permits.

<sup>7</sup>Rounded to the nearest day.

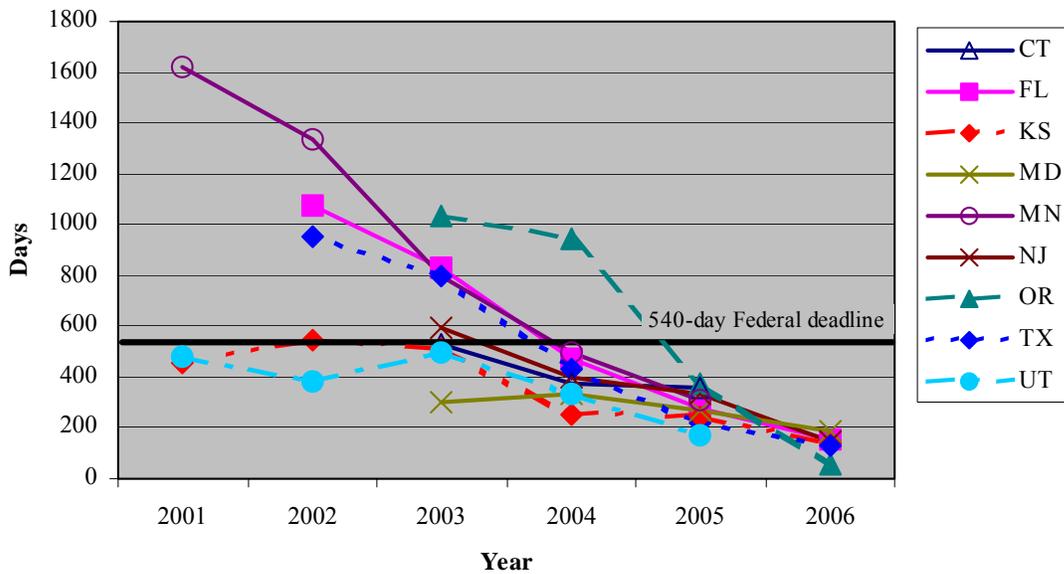
<sup>8</sup>If the SPM is determined to be “a major permit amendment to construct a modification,” per state regulations, the agency must take final action on the permit within 14 months from the date an application is deemed complete if there are no public meeting/hearing and no significant adverse comments. Otherwise the deadline is 18 months for submittal of a complete permit application.

<sup>9</sup>FL DEP does not conduct a discrete ACR but rather a combined administrative and technical review.

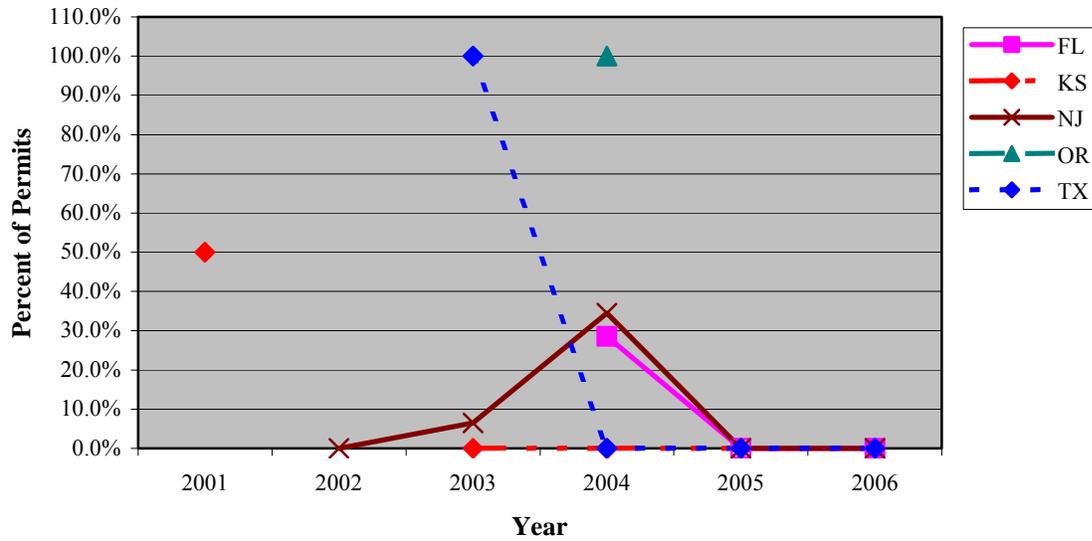
**Figure 3-1 Actual Percentage of Renewal Permits Issued Late by Year**



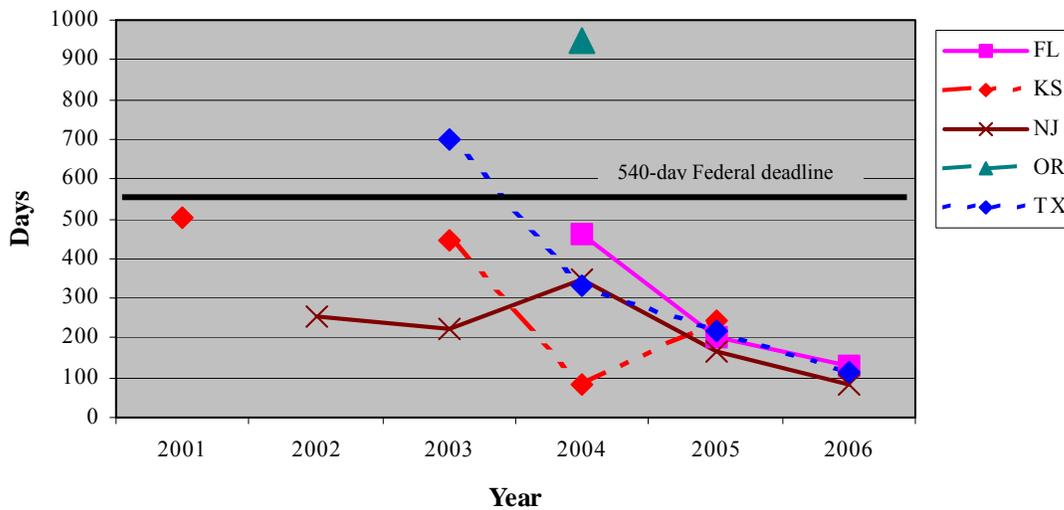
**Figure 3-2 Actual Average Time to Issue Renewal Permits by Year (Days)**



**Figure 3-3 Actual Percent of Significant Permit Modifications Issued Late by Year**



**Figure 3-4 Actual Average Time to Issue Significant Permit Modifications by Year (Days)**



## **Timeliness of Agency Permit Renewal and SPM Issuance**

To assess actual issuance timeframes, we requested that each agency provide us with recent data on the timeliness of permit renewals and SPMs issued.<sup>1</sup> We used agency data spanning the period from May 2001 through August 2006 to calculate, on an annual basis, the percentage of permit renewals and SPMs agencies issued late, i.e., after the 18-month Federal deadline. We also calculated the average annual average issuance time, in days, for renewal permits and SPMs from actual application receipt and permit issuance dates supplied by each agency.<sup>2</sup> (See Appendix D for details on the data received and the methods we used to calculate rates of late issuance.)

Our calculations demonstrate that over time, agencies have improved their ability to issue timely permit renewals and SPMs. As detailed in the agency-specific tables in Appendix E, the actual percentage of permits issued late and average number of days to issue permits calculated on an annual basis decreased from the start to the end of the period for which each agency provided data. These trends are depicted for permit renewals in Figures 3-1 and 3-2 and for SPMs in Figures 3-3 and 3-4. For permit renewals, the annual rate of late issuance increases for a few agencies in earlier years but trends downward by 2006. The downward trend is more pronounced for the calculated average issuance timeframes, which suggests that, over time, even agencies with relatively high rates of late permit issuance showed improvement in the timeliness with which they issued permits. By 2004, on average, almost all agencies issued their permit renewals within 540 days. Although agencies provided only limited SPM data, the general trend in annual rates of late issuance and average days to issue SPMs mimics that for permit renewals, with the exception of OR DEQ, which issued only one SPM in 2004.

Iec's analysis of KDHE's renewal permit data further illustrates these findings. The calculated percentage of renewal permits issued by the agency after 18 months dropped from a high of 62.2% in 2002 to a low of 3.2% in 2005.<sup>3</sup> Similarly, the average issuance time calculated for renewal permits fell from a high of 547 days in 2002 to a low of 248 days in 2005. We noted the same general trend following our analysis of KDHE's SPM data. These results imply that the agencies have improved the timeliness of their permit renewal and SPM issuance as they have reduced issuance backlogs initial Title V permits and older permit renewals.

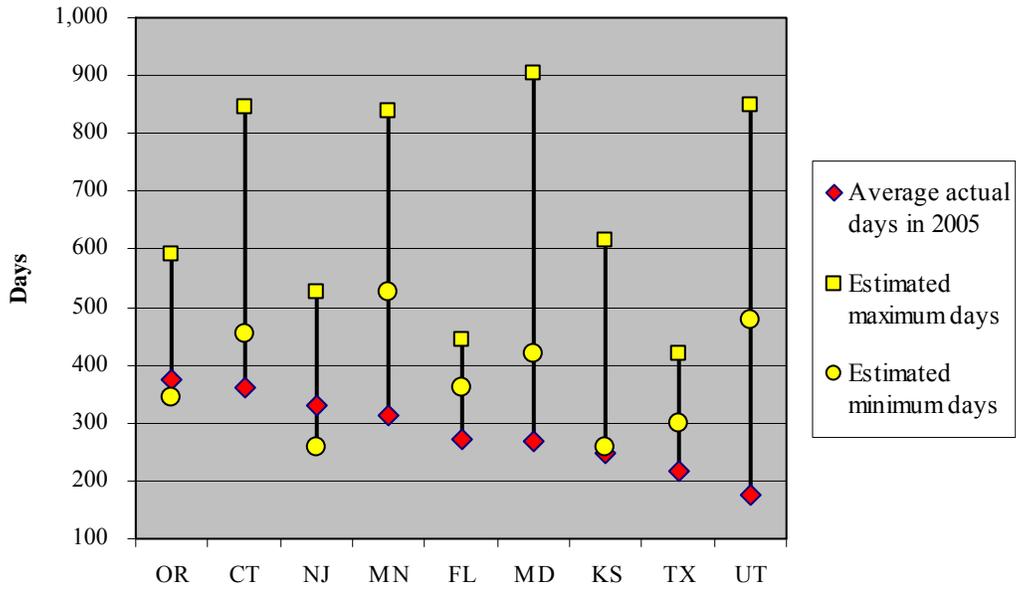
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<sup>1</sup>Data were provided by CT DEP, FL DEP, KDHE, MDE, MPCA, NJDEP, OR DEQ, TCEQ, and UT DEQ; data provided by BAAQMD were insufficient to generate estimates. We did not request that agencies supply data for a specific time period. We asked only that they provide us with the most recent data available.

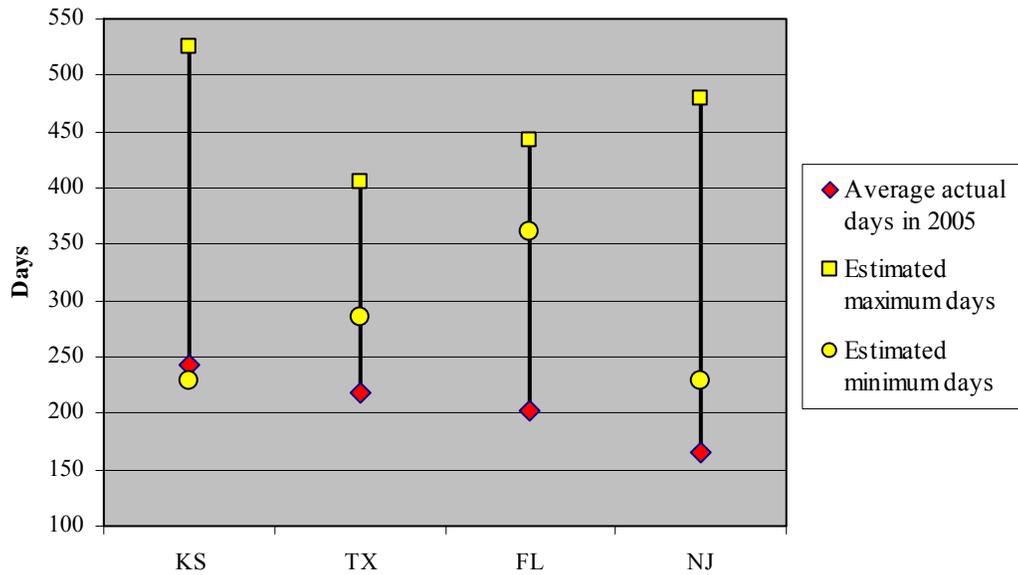
<sup>2</sup> TCEQ supplied application receipt and issuance dates as well as the actual days to issue for each permit. We calculated each agency's average issuance timeframe for issued permit renewals and SPMs only. We did not include overdue or currently pending permits in the calculation since we could not predict the dates on which they would be issued. As a result, the average days to issue permit renewals and SPMs for agencies with overdue permits, i.e., permits that have yet to be issued within 18 months of application receipt, may be lower than would be predicted had we established an arbitrary issuance date for these permits.

<sup>3</sup>We used data from 2005 rather than 2006 in our analysis because it was the most recent full year of data provided by the agency. The few data points for 2006 continue along the same downward trend as the older issuance data.

**Figure 3-5 Estimated vs. Average Actual Number of Days to Issue Renewal Permits in 2005**



**Figure 3-6 Estimated vs. Average Actual Number of Days to Issue SPMs in 2005**



Figures 3-5 and 3-6 plot the actual average days to issue permit renewals and SPMs, calculated for 2005, against the estimated minimum and maximum issuance timeframes for each agency.<sup>4</sup> Actual issuance times for renewal permits approximate the minimum end of the estimated range for all agencies that provided issuance data. The position of the actual issuance times relative to the estimated timeframes may be due, in part, to the incorporation in our minimum estimates, of the time required for agencies to request and obtain additional information from applicants as well as prepare a response to comments for all permits. In reality, these two circumstances may impact very few permits. The actual average days to issue SPMs also appear to approximate the lower end of the range between the estimated minimum and maximum timeframes for all agencies that provided SPM issuance data, except OR DEQ, which did not issue any SPMs in 2005.

## **FACTORS CONTRIBUTING TO PERFORMANCE CHARACTERISTICS**

Permitting agencies have identified a number of factors that contribute to delay at different points in the issuance process. These factors may extend the time required for the agency to complete a given step in the process without influencing the overall issuance timeframe (e.g., a delay in the time required to conduct a technical review), or they may prevent the timely issuance of permits altogether. We asked agencies a series of questions about the frequency with which certain factors contribute to delays during the administrative review, technical review and permit drafting step, and the public comment period. We then asked a separate series of questions about the magnitude of delay in permit issuance caused by factors associated with the technical review and permit drafting step, public comment period and EPA review. This section discusses the factors that frequently delay the process as well as those that occur less frequently but may cause significant delays in the overall time to issue permit renewals and SPMs. Table 3-3 lists the factors agencies said frequently, i.e., *almost always* or *often*, impact the timeframe for determining the completeness of renewal applications, drafting renewal permits and SPMs, and conducting the public comment period. Table 3-4 presents factors associated with the technical review and permit drafting step, public comment period, and EPA review that agencies identified as significant contributors to delay in issuance times for renewal permits and SPMs, i.e., ranked a “1” or “2” on a five-point scale, where a “1” signifies the most contribution to delay and “5” the least.<sup>5</sup>

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<sup>4</sup> We compared the estimated issuance timeframes against the actual issuance times calculated from the 2005 dataset because it was the most recent full year of data available for each agency.

<sup>5</sup> Although we limited the discussion of factors that contribute to delay in this report to those which agencies identified as contributing most frequently, i.e., *almost always* or *often* and most significantly, i.e., ranked a “1” or “2”, we will ensure that EPA has access to the full set of agency responses at the project’s conclusion.

**Table 3-3 Factors that Almost Always or Often Impact the Issuance Timeframe for Title V Permit Renewals and Significant Permit Modifications<sup>1</sup>**

										UT
Applicant confusion over regulatory requirements.				R	R			R		
Other:										
Applicants do not read and follow instructions.						R				
										UT
Detail and accuracy of regulatory requirements in application is insufficient.					R	B	S	B		
Applications automatically deemed "complete" when they are not.	R					R		R		
Incomplete administrative review prior to drafting.							S			
Information changes between conclusion on administrative review and drafting phase.	R									
Other:										
Applicant wishes to combine SPM with a renewal.						R				
										UT
Delays from public hearings.								B		
<b>Notes:</b>										
<sup>1</sup> R = Permit renewals, S = Significant permit modifications, and B = Both significant permit modifications and permit renewals. Blank cells indicate that the agency did not identify the factor as <i>almost always</i> or <i>often</i> contributing to delay.										
<sup>2</sup> An administrative review may constitute a cursory accounting of the basic components of an application, e.g., applicant certifications, or a more comprehensive review aimed at determining the appropriateness and validity of the information submitted.										
<sup>3</sup> Additional information may be requested from applicants during the technical review (if conducted) and/or during permit drafting.										

**Table 3-4 Factors that Contribute Most to Delay in the Issuance of Title V Permit Renewals and Significant Permit Modifications<sup>1</sup>**

-										UT
Negotiations with applicants over permit terms.	B		B	R	R	B	B	B	B	
Lack of responsiveness of applicants to agency requests for more information.	S		B	R		B		B	B	
										UT
Competing Title V workload for permit writers.	B		B		R		B	B	B	R
Competing non-Title V workload priorities for permit writers.	B		B	B	R	R		B		
Development of permit support documents prepared by the agency.	R				R	B				
Lack of responsiveness by others in the agency to permit writers' requests for approval or input.	R					S				
Other:										
Existing compliance issues that necessitate the inclusion of a compliance plan in the permit.									R	
										UT
Need to develop a response to comments document.	B				R	B		B	R	
Public requests for hearings or background documents.					R	B		B		
Other:										
Facility requests an extension of time to request a hearing. <sup>2</sup>			S							
Comments and participation of EPA and other federal entities.						S				
										UT
Switching from concurrent to sequential review.	B					B			R	
Waiting for EPA comments.						B		B		
Waiting for EPA to decide whether to waive its review.								B		
<b>Notes:</b>										
<sup>1</sup> R = Permit renewals, S = Significant permit modifications, and B = Both significant permit modifications and permit renewals. Blank cells indicate that the agency did not identify the factor as almost always or often contributing to delay.										
<sup>2</sup> In FL, a public hearing is a step in the litigation process initiated by the facility.										

### **Administrative Review and Application Completeness**

We asked agency respondents to characterize the procedures by which they process incoming renewal applications and assess their completeness. Though the agencies have adopted the federal 60-day deadline for assessing renewal application completeness, they vary in the time and amount of staff resources utilized to conduct their ACR. BAAQMD, CT DEP, KDHE, MDE, MPCA, OR DEQ, and UT DEQ reported that more than 75 percent of renewal applications received by their agencies are administratively complete. Only 25 to 50 percent of applications received by NJDEP are administratively complete, and less than 25 percent of incoming renewal applications are deemed complete following FL DEP's combined administrative/technical review.

These results imply that, for most agencies, the completeness determination has little bearing on the overall timeframe for issuance since rates of administrative completeness are more likely to be a function of the scope of the agency's ACR, and not the actual completeness of the application. A majority of agencies – BAAQMD, CT DEP, KDHE, MDE, NJDEP, OR DEQ, and UT DEQ – assign applications to permit writers who conduct the ACR within a few days to a few weeks; UT DEQ and NJDEP writers utilize an application checklist to facilitate their review. For others, such as MPCA, the ACR consists of a quick review of forms and required signatures conducted by clerical staff within a few hours of application receipt. FL DEP conducts its administrative review simultaneously with a more comprehensive technical review of application content that can take the full 60-days or longer and result in fewer applications initially being designated as “administratively” complete.<sup>6</sup> For agencies that conduct an expedited ACR, most applications are deemed “administratively complete” by the 60-day deadline unless they are grossly insufficient, e.g., are missing required forms or certifications.<sup>7</sup>

A key factor cited by agencies as *almost always* or *often* contributing to renewal applications not being deemed administratively complete, is applicant confusion over interpretations of federal regulatory requirements, e.g., Compliance Assurance Monitoring (CAM), Maximum Achievable Control Technology (MACT) standards, and National Emissions Standards for Hazardous Air Pollutants (NESHAP), resulting in the omission of information needed to draft the permit. KDHE, MDE, and OR DEQ indicated that applicant uncertainty about how to interpret requirements *almost always* or *often* contributes to applications being found administratively incomplete, while CT DEP, NJDEQ, and UT DEQ indicated that it sometimes contributes.<sup>8</sup> MPCA pointed to applicants' apparent unwillingness to thoroughly read and follow instructions as a frequent contributor to applications being deemed incomplete during its ACR; BAAQMD indicated that applicants checking the wrong boxes on the certification forms sometimes contributed to application incompleteness.

Several agencies noted that facilities (and the consultants who prepare permit applications) do not understand CAM and fail to address its applicability in their applications. Often these facilities do not submit a CAM plan or they submit plans that the agency finds unacceptable. MDE indicated that if the CAM plan or applicability determination is in question, the agency will deem the application complete and work with the facility during the technical review to address the insufficiency. Application deficiencies can increase the time it takes agencies to make a completeness determination but often, as in MDE's approach, they opt to deem the application complete and obtain the missing information later in the permit issuance process.

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<sup>6</sup> TCEQ, which also conducts a combined ACR and technical review, did not respond to questions 9-12 in the survey pertaining to rates of and contributors to administrative completeness. The agency noted that in general it will automatically deem applications “administratively complete” at 60 days.

<sup>7</sup>The term “administrative completeness” is defined by each agency in accordance with its established criteria and procedures for conducting an ACR.

<sup>8</sup> NJDEP has an integrated Title I/Title V program and incorporates a completeness review for Title I application elements in its ACR for SPM applications. The agency noted that applicant confusion about Title I requirements, e.g., NSPS KKKK, can delay the completeness determination for months.

## **Technical Review and Permit Drafting**

In addition to assessing the frequency with which certain factors delay the timely issuance of permit renewals and SPMs at each step in the issuance process, agencies ranked the degree to which these factors impede timeliness on a scale from one to five, where one contributes most to delay and five contributes least. The next two sections discuss the external and internal factors identified by agencies as most contributing to delay, i.e., which they assigned a ranking of “1” or “2.”

### **External Factors Contributing to Delay**

The time required to obtain additional information from applicants, identified during the ACR or technical review, can significantly impede the timeliness with which a permit writer can begin or complete the permit drafting process for both renewals and SPMs. The information may be needed to complete a CAM plan or determine applicable requirements, or may be related to facility changes in operations that have occurred since the last permit was issued, which must be incorporated into the new permit. According to the agencies, the failure of permit renewal and SPM applications to fully address federal regulatory requirements frequently contributes to the need to solicit additional information from facilities. This was cited by MDE, MPCA, NJDEP, and OR DEQ, as *almost always* or *often* contributing, and sometimes contributing by BAAQMD, CT DEP, KDHE, TCEQ, and UT DEQ. BAAQMD identified changes in facility operation or applicable requirements that occur between the conclusion of the ACR and the start of permit drafting as contributing *often* to the need for facilities to provide more information for renewals and SPMs; CT DEP, FL DEP, KDHE, MDE, NJDEP, OR DEQ, and TCEQ said that these changes sometimes contribute to a need for additional information.

As discussed above, a limited ACR may also prompt agencies to quickly designate applications as administratively complete and defer questions about application content and accuracy until later in the issuance process. BAAQMD, MPCA, and OR DEQ cited an incomplete ACR and the practice of deeming incomplete applications “administratively complete” as factors that *almost always* or *often* contribute to agencies having to solicit more information from applicants during the technical review or while drafting renewals or SPMs; MDE, NJDEP, and TCEQ identified these factors as sometimes contributing to the need to solicit more information from applicants. Table 3-5 shows the proportion of renewal and SPM applications determined to be administratively complete that were found to be lacking essential information during the agency’s technical review. Agencies that conduct limited or combined ACRs reported the highest proportion of renewal applications, more than 75%, found to be incomplete during their technical review.<sup>9</sup> Compared to renewal applications, a smaller proportion of SPM applications deemed complete are determined subsequently to be incomplete; half the agencies reported that fewer than 25% of their SPM applications are missing essential information.

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<sup>9</sup>FL DEP noted that because the agency carries out its combined ACR and technical review within the 60-day completeness determination window, applications are not deemed complete until all the required information is received.

**Table 3-5 Rates of Initial and Subsequent Application Completeness**

<b>Agency</b>	<b>Complete After ACR</b>	<b>Subsequent Incompleteness - Renewals</b>	<b>Subsequent Incompleteness - SPMs</b>	<b>Limited or Combined ACR</b>
<b>BAAQMD</b>	>75%	>75%	<25%	Limited
<b>KDHE</b>	>75%	>75%	25-50%	
<b>MPCA</b>	>75%	>75%	>75%	Limited
<b>TCEQ</b>		>75%	51-75%	Combined
<b>MDE</b>	>75%	51-75%		
<b>OR DEQ</b>	>75%	51-75%	51-75%	
<b>UT DEQ</b>	>75%	<25%	<25%	
<b>CT DEP</b>	>75%	<25%	<25%	
<b>NJDEP</b>	26-50%	<25%	25-50%	
<b>FL DEP</b>	<25%	>75%	<25%	Combined

Agencies attribute the disparity in rates of later incompleteness between renewal and SPM applications to the characteristics of each type of application. In general, renewal applications are more comprehensive and complex than applications for SPMs because they incorporate all the operational changes that have occurred at a facility in the intervening five years, must include regulatory applicability determinations, and, in situations where CAM applies, CAM plans. KDHE and MDE posit that because renewal applications cover operations across an entire facility, there are more opportunities to miss small mistakes and minor changes early in the review process. In BAAQMD's experience, the amount of data to be included in renewal permits compared to initial permits, e.g., capacities for each emission source as well as CAM- and non-CAM related periodic monitoring information, make renewal applications more challenging to review. SPM applications, by contrast, constitute a single proposed change, which requires comparatively less time to review. Further, the need to first process significant modifications to a facility through the New Source Review (NSR) process, described by BAAQMD, CT DEP, MDE, NJDEP, and UT DEQ, often resolves concerns over application accuracy and data omissions in advance of the Title V review. For NJDEP, which has combined Title I/Title V program, the converse is true; the incorporation of required elements for Title I as part of its administrative review of an SPM application increases the likelihood that the application will be found to be incomplete during the technical review.<sup>10</sup>

Reluctance on the part of applicants to supply additional information in a timely manner presents a challenge for most agencies when attempting to draft permits, particularly renewals. A majority ranked the lack of responsiveness of applicants to requests for information as a factor that contributes significantly to time delays in drafting both permit renewals and SPMs.<sup>11</sup>

<sup>10</sup> MPCA also has a combined construction and operating permit program for significant modifications. Under this arrangement, the agency issues a single Title V SPM/construction permit.

<sup>11</sup>A number of agencies, including MDE and TCEQ, noted that waiting for applicants to respond to information requests extends the time it takes permit engineers to begin work on or complete permit drafts but rarely leads to permits being issued late. FL DEP, which combines its administrative and technical review, reported that a lack of facility responsiveness has a greater impact on the speed with which it is able to make a completeness determination.

Consensus exists among all the agencies that applicants for renewal permits have little incentive to respond promptly to agency requests once the permit application shield has been secured.<sup>12</sup> SPM applicants, who must have a permit in order to operate their proposed changes, tend to respond more quickly, although MPCA reported that it puts 10-15 percent of its SPM applications “on hold,” i.e., downgrades their position in the processing queue due to incomplete information.

Table 3-6 lists the deadlines given to applicants for providing requested information and the average timeframes reported by agencies for receiving it. The data show that for all but three agencies, BAAQMD, MPCA, and TCEQ, applicants, on average, are meeting information receipt deadlines. The data also suggest that the timeliness of applicant response is influenced by the length of time given by agencies to provide additional information, i.e., applicants wait until the deadline before responding to agency requests. Agencies with the longest deadlines tend to wait the longest to receive needed information. For UT DEQ and OR DEQ, the two agencies that have not established deadlines for SPM applicants, the open-ended timeframe does not appear to impact applicant responsiveness.

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<sup>12</sup> The permit application shield, which comes into effect once a renewal application is submitted on time and deemed complete, allows a source to continue to operate legally after its permit expires until such time as the permit agency takes final action on its application.

**Table 3-6 Agency Deadlines for Receipt of Information and Facility Responsiveness**

Agency	Time Given to Applicants to Provide Additional Information (days)		Average Time to Receive Additional Information <sup>1</sup> (days)		Potential Consequences for Facilities
	Renewals	SPMs	Renewals	SPMs	
<b>FL DEP</b>	≤ 90	≤ 90	> 60	> 60	Possible denial of renewal or modification.
<b>MDE</b>	≤ 60	≤ 60	46-60	46-60	First, a phone call and/or site visit; second a Notice of Violation is sent; and third an Order is issued.
<b>UT DEQ</b>	≤ 60	No deadline	31-45	15-30	Ask again for information. Threaten loss of permit shield.
<b>CT DEP</b>	≤ 45	≤ 45	31-45	31-45	Enforcement referral or initiation of rejections procedures for insufficiency.
<b>BAAQMD</b>	≤ 30	≤ 30		> 60	None.
<b>TCEQ</b>	≤ 30	≤ 30	31-45	15-30	Additional deficiency letter is sent warning application could be voided.
<b>MPCA</b>	≤ 30	≤ 15	-	15-30	Alert the applicant about enforcement consequences and the possible loss of the permit application shield.
<b>KDHE</b>	≤ 30	≤ 30	15-30	15-30	Application is deemed incomplete after 60 days.
<b>NJDEP</b>	≤ 30	≤ 30	< 15	15-30	Send an intent to deny application letter followed by denial of the application.
<b>OR DEQ</b>	≤ 30	No deadline	15-30	< 15	Renewals are deemed incomplete and applicant loses the permit shield.

**Note:**  
<sup>1</sup> Shading indicates the reported average time to receive information exceeds the time given to facilities. Agencies are sorted by the time given to facilities to provide information, from most to least.

A related factor also identified by a majority of agencies as contributing most to delay in the time it takes to draft permit renewals and SPMs, is agency negotiations with applicants over permit terms. Agencies reported that it takes time to reach final agreement with sources over the content of CAM plans and regulatory applicability. MDE commented that working with facilities to determine which parts of the requirements apply can cause significant delay. For instance, resolving CAM issues can add 8-9 months to the permit issuance timeframe. The agency added that incorporating MACT provisions in a permit can be complicated because the agency requires that exact regulatory language be used rather than allowing the regulation to be incorporated by reference. Permitting staff have limited opportunities to build experience with more complex MACT standards since only a few of the state’s facilities are subject to them. Other agencies cite negotiations over permit terms initiated after a draft permit has been completed can delay final permit issuance. FL DEP reported that post-draft negotiations over CAM parameters can go “on and on.” MPCA and NJDEP – agencies that have resorted to drafting permits on their own when they are unable to settle on permit terms with applicants – noted that these same applicants may raise objections to the agency’s terms once the permits have been drafted. Applicant objections can lead to further negotiations and a delay in the public noticing of the draft permits. MPCA noted that resolving its debates with applicants over which emissions factors to use would save the agency time over the whole permitting process.

While we intended this discussion to address only those factors identified by agencies as contributing most frequently and significantly to delay, we note that agencies identified other factors that contribute to delay to a lesser degree than those included in Tables 3-3 and 3-4. One such external factor, the lack of EPA responsiveness, was cited by a few agencies as an impediment to the timely drafting of renewal permits and SPMs, although none ranked this factor higher than a “3” on a 5-point scale. The agencies – BAAQMD, MDE, MPCA, and TCEQ – mentioned that waiting for EPA to respond to requests for input on applicability determinations, plant-wide applicability limits, compliance plans, and alternate means of compliance or alternate monitoring plans, can delay permit drafting, particularly when input is required from EPA headquarters.<sup>13</sup> Based on the agencies’ ranking of this factor, however, it would appear that agencies do not often request or require EPA feedback. Yet, the fact that a number of agency recommendations to EPA address this perceived lack of responsiveness (see Table 3-12), suggests that it causes notable concern when it occurs.

### **Internal Factors Contributing to Delay**

Foremost among the internal factors cited by agencies as contributing most to delay are competing non-Title V and Title V workload priorities for permit writers. Permit writers in all 10 agencies have responsibility for drafting a variety of non-Title V permits, e.g., construction permits, minor source operating permits, synthetic minor permits, and general permits, in addition to Title V operating permits. In some states they are also called on to assist with administrative and data management tasks unrelated to permit writing.<sup>14</sup> Although agencies try to balance permit writer workload between Title V permits and non-Title V permits, they admit that Title V permits, particularly renewals, carry a lower priority for writers than construction permits, SPMs, and initial operating permits. Permit writers working on renewal permits often have to put them aside when an application for NSR permit or an SPM is received. For economic reasons, facilities and agencies share an interest in assuring that construction permits are issued quickly.<sup>15</sup> The same degree of urgency does not drive the processing of permit renewal applications; especially once the permit application shield is enacted authorizing the facility to continue operations after its permit expires. Since applications for SPMs often result from NSR actions, they too take priority over renewals. Agencies such as MPCA and NJDEP, which combine SPMs with construction permits, consider SPMs as competing “non-Title V” priorities that “get in the way of Title V renewals.”

Many agencies simply do not have the staff resources available to effectively address backlogs of Title V renewals and SPMs that result from competing priorities. KDHE, MDE, and

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<sup>13</sup> MDE noted, however, that Region III air permitting staff have been extremely responsive to requests for assistance and/or guidance during the Title V implementation process.

<sup>14</sup> OR DEQ and UT DEQ, which are upgrading their databases, noted that permit writers have been busy preparing for the switch and learning the new systems.

<sup>15</sup> As part of its continuous improvement process aimed at reducing construction authorization timeframes, MPCA has initiated the Air Quality Six Sigma Project. Under this project, the agency has streamlined procedures to maximize the percentage of work time actively spent by permit writers on construction permit applications. When construction permits require more attention, management responds by shifting staff priorities from other projects to address them.

MPCA reported significant turnover of permit writers in recent years; MPCA reported losing approximately a third of its permitting staff. The agencies attribute these losses to their inability to pay wages competitive with similar engineering positions in the federal government or private sector. A common complaint is that salary caps enacted by the state legislatures prevent agencies from using their Title V fees to augment wages. KDHE noted that its legislature has not authorized a raise in six years. Further, when new engineers are hired, the agency must dedicate staff resources to train them. MPCA complained that its experienced writers are continually training new hires, consuming time that would otherwise be used to draft permits.

A few agencies, BAAQMD, MDE, and MPCA also pointed to the development of permit “support documents” and a lack of responsiveness by other agency staff to permit writers’ requests for approval or input as contributing significantly to issuance delays for permit renewals and SPMs. Permit writers at BAAQMD and MDE invest time preparing statements of basis for permit renewals in the event they were not prepared for the original permits or if they require modification. TCEQ commented that the development and incorporation of compliance plans in the permit for applicants with existing compliance issues also contributes considerably to delay.

### **Public Comment Period**

The length of the time in which the public may review and provide comment on a draft permit renewal or SPM is consistent across air permitting agencies, usually comprising 30 days as specified in federal regulations.<sup>16</sup> The amount of public interest in a draft permit, however, can extend that timeframe if the agency must respond to public comments or conduct a public hearing. BAAQMD, MDE, MPCA, OR DEQ, and TCEQ cited the time needed to respond to public comments, on the few occasions when agencies receive them, as a major contributor to delay in the issuance of permit renewals and SPMs. Agencies are required to prepare a response for every comment submitted, regardless of its relevance to the proposed Title V renewal permit or SPM. The timeframe for preparing the document varies with the number and complexity of comments received in addition to the level of review provided by other groups within and external to each agency. Applicant comments comprise the bulk of the comments received by MPCA, especially in instances where the facility did not cooperate with the agency during permit drafting. As noted by NJDEP, the mostly technical comments submitted by applicants require comparatively less time to address than public comments, which reflect a range of concerns about a facility. MDE often devotes time to obtaining answers to citizen concerns from other media programs and agencies. MPCA also acknowledged delays that sometimes ensue from the involvement of other stakeholders that provide consultation to the agency on permit renewals and SPMs, such as the National Park Service and Indian tribes.<sup>17</sup> For BAAQMD, MDE, and TCEQ, the practice of distributing the response to comments document for review and authorization – first to permitting staff, then to the agency’s legal staff and administrative officials – can also introduce delays. A number of agencies mentioned that waiting to receive

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<sup>16</sup> OR DEQ has established a 35-day public comment period.

<sup>17</sup>For large SPM applications that necessitate MPCA to prepare an environmental impact statement, the air permitting agency must provide responses to comments generated in response to the environmental assessment worksheet noticed simultaneously with the draft permit during the 30-day public comment period. These comments often pertain to air toxics and cumulative risks that are not applicable requirements under Title V.

proof that the public notice was published can delay the start of the public comment period, especially if the agency relies on the facility or its legal staff to publish it.

Public hearings have an even greater impact on timeliness than the need to respond to comments. As shown in Table 3-1, the average time to complete the public comment period nearly doubles from 67 to 126 days when agencies conduct a public hearing. Three agencies – MDE, MPCA, and OR DEQ – identified public hearings as a factor that significantly delays the issuance of permit renewals and SPMs.<sup>18</sup> MDE noted, however, that it has conducted public hearings for fewer than 10% of draft permit renewals. For OR DEQ holding public hearings *almost always* contributes to delay.<sup>19</sup> MDE, and OR DEQ in particular, associate requests for public hearings to a growing awareness of air regulations and an interest in the operations of Title V sources shown by environmental and public interest groups. Hearings generally are held in response to requests from the public or elected officials because facility operations are controversial. Both agencies note that it takes time to be receptive to public concerns about facilities, even if they are unrelated to the Title V permit, because “it’s the right thing” to do. At the MPCA, which has a two-tiered hearing process, a public request for an informational meeting during the public comment period requires the agency to extend the timeframe for receiving additional comments by another 30 to 60 days. In the event the citizens that requested the meeting are not satisfied, they can petition the agency for a hearing before its citizen board, which may take a month or more to schedule.<sup>20</sup> Even agencies for which public hearings are a rare occurrence, acknowledge the additional time they require. CT DEP, for example, conceded that the procedural requirements to give notice for a public hearing “kills your timeframe.”

### **EPA Review**

Overall, permitting agencies do not perceive the 45-day EPA review period as compromising the timely issuance of permit renewals and SPMs. A majority of agencies – BAAQMD, CT DEP, KDHE, MPCA, MDE, and TCEQ – conduct their public comment period concurrently with EPA’s review; FL DEP has recently initiated concurrent review although it has not used it for any permit renewals or SPMs to date. Even OR DEQ and UT DEQ, agencies that currently utilize sequential review, have established agreements with Regions X and VIII, respectively, under which EPA can elect to complete its review within a few days or weeks for non-controversial permits. Still, some agencies identified circumstances that impact the timeframe in which EPA completes its review leading to delay in the issuance of permit renewals and SPMs. One such circumstance occurs when agencies must switch from concurrent to sequential review. BAAQMD, MPCA, and TCEQ ranked this occurrence as a significant

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<sup>18</sup> FL DEP noted that facility requests for an extension of time to request a public hearing contribute significantly to delays in issuing permit renewals and SPMs. A public hearing, as defined by FL DEP, is a step in the litigation process initiated by facilities that is external to the routine public comment period.

<sup>19</sup> FL DEP initially reported that public hearings *often* contribute to delay but later opted to withdraw its response to be consistent with the agency’s definition of the term “public hearing.” FL DEP’s equivalent to a public hearing, called a “public meeting,” denotes an informational workshop conducted by the agency during the public comment period, and rarely impacts timely permit issuance.

<sup>20</sup> A public information meeting is similar to a public hearing except that comments offered by the public during the meeting do not become part of the public record. Attendees are invited to provide written comments that are added to the docket.

contributor to delay. Table 3-7 outlines the circumstances identified by agencies that would prompt them to switch from concurrent to sequential review.

**Table 3-7 Circumstances Prompting Agencies to Switch from Concurrent to Sequential Review**

							TX
Request by EPA for a sequential process.	✓	✓	✓	✓	✓	✓	✓
Agency decision to use a sequential review.	✓	✓	✓	✓	✓	✓	✓
Receipt of a significant or germane public comment.			✓		✓	✓	✓
Significant public interest concerning a facility's permit.	✓		✓		✓	✓	
Receipt of any public comments.							✓
<b>Note:</b>							
¹FL has not used concurrent review for any permits renewals or SPMs yet.							

The potential for delay resulting from a switch to sequential review is higher when the switch is prompted by significant public interest or comments received. Agencies differ in how they define the term “significant.” BAAQMD commented that “you know [significant public interest] when you’ve seen it,” and added that there are only a few facilities that routinely attract attention. MPCA’s rules, by contrast, specify significant comments as “adverse comments on any applicable requirement of the permit.”<sup>21</sup> Except for TCEQ which switches to sequential review whenever comments on a draft permit are received, agencies recounted few, if any, instances when they had to initiate a sequential review in response to significant public interest or a request by EPA.

The contribution of EPA’s review to delay may occasionally result from EPA’s own actions. MPCA and OR DEQ both indicated that waiting for EPA to provide comments on draft permit renewals and SPMs can significantly impact the timeliness of permit issuance. MPCA pointed specifically to a situation in which a construction permit that was also a significant modification under Title V had been appealed to EPA Region V’s Environmental Appeals Board. The agency noted that the Board can sit on appeals related to construction issues, e.g., NSPS and PSD, and effectively postpone the issuance of the SPM. While agencies rarely ever have to wait for EPA to decide to waive its review, OR DEQ reported that the time spent waiting has contributed to delay in issuing permit renewals and SPMs.<sup>22</sup>

**Relative Impact of Factors Contributing to Delay**

Although we did not directly ask agencies to rank the relative impact of factors contributing most to delay during the issuance process, we were able to develop a proxy measure of relative impact using estimates of frequency inferred from agency questionnaire responses and comments made during follow-up interviews. As shown in Table 3-8, competing non-Title V workload priorities contribute more to delay than any other factor associated with permit drafting, the public comment period, and EPA review. We based this assessment on the number

<sup>21</sup> Minnesota Rules Chapter 7007.0950 Subpart 2(B)(3).

<sup>22</sup> OR DEQ stressed that, for the most part, EPA’s review does not currently cause any delays. There were a few instances of delay that occurred early on during the implementation of the state’s Title V Program

of agencies that identified the factor as a significant contributor to delay (six agencies out of ten) as well as the consensus of agency opinion on the frequency with which competing non-Title V priorities occur (almost always and frequently). The factor with the second highest relative impact, the lack of responsiveness of applicants to agency requests, also occurs frequently during the technical review and permit-drafting step in the issuance process. Factors associated with the public comment period – responding to comments and public hearing requests - also frequently impact delay, but only for two agencies. More agencies said switching from a concurrent to a sequential EPA review contributes significantly to delay, but added that they rarely, if ever, have to do it.

**Table 3-8 Estimated Frequency of Impact for Factors Identified as Contributing Most to Delay<sup>1</sup>**

											<b>UT</b>
Lack of responsiveness of applicants to agency requests for more information	A		A	R		F		A	A		
Negotiations with applicants over permit terms	N/A		A	I	N/A	I	I	N/A	N/A		
											<b>UT</b>
Competing non-Title V workload priorities for permit writers	F		A	F	A	A		A			
Competing Title V workload for permit writers	F		I		I		F	A	I	N/A	
Development of permit support documents prepared by the agency	N/A				A	N/A					
Lack of responsiveness by others in the agency to permit writers' requests for approval or input	N/A				N/A						
											<b>UT</b>
Need to develop a response to comments document	N/A				A	N/A		A	R		
Public requests for hearings or background documents					A	I		A			
											<b>UT</b>
Switching from concurrent to sequential review	I					N/A			I		
Waiting for EPA comments						N/A		I			
Waiting for EPA to decide whether to waive its review								I			
<b>Note:</b>											
<sup>1</sup> A = almost always, F = frequently, I = infrequently, R = rarely, N/A = frequency not able to be estimated from agency comments. Blank cells indicate that the agency did not rank the factor as contributing most to delay.											

### **Issuance of Original Title V Permits**

Ongoing delays in processing and issuing original Title V permits is another example of a competing priority that can potentially impact the timely issuance of renewal permits and SPMs. Six agencies – CT DEP, MDE, MPCA, NJDEP, UT DEQ, and TCEQ – indicated that they have yet to issue all their original Title V permits. All reported, however, that outstanding permits

have not affected the agencies' ability to issue renewals and SPMs on time.<sup>23</sup> Table 3-9 lists for each agency the number of original permits still outstanding and their current disposition.

**Table 3-9 Number and Disposition of Original Title V Permits**

<b>Agency</b>	<b>Number of Outstanding Permits</b>	<b>Disposition</b>
<b>CT DEP</b>	2	Under enforcement.
<b>MDE</b>	4	Consent orders pending.
<b>MPCA</b>	1	Issue by 1/30/07.
<b>NJDEP</b>	1	Issue by 11/30/06.
<b>TCEQ</b>	3	Two out of three to be issued by 12/31/06. Waiting on administrative decisions for the third.
<b>UT DEQ</b>	9	Currently inactive pending the outcome of a dispute with EPA over State Implementation Plan conditions.

### **ACTIONS TO INCREASE THE EFFICIENCY AND EFFECTIVENESS OF ISSUANCES**

The final evaluation question asks what actions federal, state, or local agencies can take to increase the efficiency and effectiveness of the issuance process for Title V permit renewals and significant permit modifications. To answer this question, we asked air permitting agencies to offer suggestions for minimizing the impact of factors that contribute most to delay at each step in the issuance process. The suggestions provided include strategies that the agencies have already employed and specific recommendations for how EPA can help them mitigate delay. Table 3-10 lists the main categories of actions employed by agencies at each step in the issuance process. Appendix F includes a detailed list of strategies employed by agencies throughout the issuance process.

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<sup>23</sup> MPCA noted that it has yet to issue 30-40 original permits under its Federally Enforceable State Operating Permit (FESOP) program. These outstanding FESOP permits assume a higher priority for processing than Title V renewals but a lower priority than SPMs.

**Table 3-10 Strategies Employed by Agencies to Address Factors that Contribute Most to Delay<sup>1,2</sup>**

											UT
Increase CAM resources and make CAM-related application processes easier for facilities.			✓	✓	✓	✓	✓		✓	✓	
Standardize and/or streamline application forms and process.	✓		<sup>3</sup>	✓		✓			✓	✓	
Eliminate discrete administrative completeness review.			<sup>3</sup>						✓		
											UT
Increase efficiency of agency resources (e.g. prioritizing permit writers' workload, or agency reorganization).			✓	✓	✓	✓	✓		✓	✓	
Provide training opportunities for permitting staff.			✓	✓	✓	✓					
Increase outreach to facilities.	✓		✓		✓				✓		
Hire additional permitting staff and/or increase other agency resources.				✓	✓	✓					
Use standardized conditions or language in permits.			✓			✓			✓		
Invoke enforcement actions to prompt facilities to respond to deficiencies.						✓	✓				
Increase communication with EPA Regional office.						✓					
											UT
Increase outreach to stakeholders in advance of public notice.					✓	✓					✓
Standardize responses to comments.					✓				✓		
											UT
Specify circumstances when sequential review is required.						✓					
Receive advance notice of EPA's intention to review a permit.				✓							
Hold regular conference calls with EPA to discuss permitting issues.						✓					
<b>Notes:</b>											
<sup>1</sup> This table includes only strategies implemented in response to the factors that agencies identified as frequently or significantly contributing to delay, i.e., those listed in Tables 3-4 and 3-5.											
<sup>2</sup> CT DEP and OR DEQ did not provide information on strategies employed for these factors.											
<sup>3</sup> FL DEP reported having employed these strategies although not in response to factors that the agency has currently identified as contributing most to delay.											

**Administrative Review and Application Completeness**

Agencies have taken a number of steps to improve the quality and initial completeness of applications for renewal permits and SPMs. MDE, MPCA, NJDEP, and OR DEQ reported that they send facilities the forms and/or instructions needed for completing their applications. Other agencies, such as BAAQMD, CT DEP, KDHE, TCEQ, and UT DEQ refer applicants to their websites where forms and instructions are provided. Half have streamlined their application forms and instructions to help facilities and agency permitting staff navigate CAM requirements and applicability for MACT and other regulations. KDHE and NJDEP recently updated their

application forms to include questions designed to assess whether a facility is subject to CAM and identify the need to include a CAM plan. UT DEQ posted its application checklist on the agency's website; the agency also requests facilities to provide a redline/strikeout version of their old permit to facilitate the agency's review of their renewal applications. MPCA and TCEQ put in place processes to update their application forms and instructions in response to rule changes. TCEQ developed a Decision Support System (DSS), a series of flow charts intended to help facilities determine all applicable rules, including MACT options, for each emissions unit. The DSS is available at the TCEQ website and is tied into the agency's application forms.<sup>24</sup> TCEQ decided to integrate its ACR and technical review to cut the time permit writers spent reviewing applications and soliciting additional information from facilities. By combining the two steps, the writer only has to review and request information once instead of twice.<sup>25</sup>

Agencies have also sought to educate facilities, and the private consultants that prepare their permit applications, about CAM and other permit requirements in an attempt to deter subsequent negotiations over CAM plans and regulatory applicability during permit drafting. TCEQ developed a guidance document containing pre-approved CAM options; applicants make a preliminary selection and work with permit writers to make subsequent adjustments.<sup>26</sup> FL DEP has conducted outreach to facilities on a number of fronts – the agency's CAM expert has conducted professional presentations on CAM, and has offered workshops on Title V and NESHAP. The agency also provides compliance assistance to notify facilities about new requirements. Barring further regulatory changes, the FL DEP expects that the time invested to educate facilities about CAM requirements during this first round of permit renewals will not need to be repeated in future rounds of permit renewals. MDE and MPCA have also sponsored CAM training for facilities as a means to improve the quality of applications. UT DEQ has requested assistance with CAM training for sources from Region VIII and is waiting for a response. In the meantime, the agency refers applicants to EPA's Emissions Measurement Center for examples of CAM plans.<sup>27</sup> UT DEQ has seen reductions in the time expended by the agency to resolve CAM-related disputes since it began supplying CAM data from previous renewals as a way to assist more recent applicants with their CAM plans.

### **Technical Review and Permit Drafting**

Competing priorities between Title V and other agency permitting programs can impede the timely issuance of permit renewals and SPMs. The impact of these competing priorities is compounded for agencies that experience difficulties with staff turnover and retention. KDHE, MDE, and MPCA described actions they have implemented to augment their level of staffing and staff support given the legislative constraints imposed on their ability to offer competitive salaries. KDHE and MDE have filled recently vacant positions, which they anticipate will help

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<sup>24</sup> Located at the TCEQ website, [http://www.tceq.state.tx.us/permitting/air/nav/air\\_supportsys.html](http://www.tceq.state.tx.us/permitting/air/nav/air_supportsys.html).

<sup>25</sup> OR DEQ and MPCA, by contrast, proposed the possible expansion of their ACRs to allow a more comprehensive review of application content prior to making a completeness determination.

<sup>26</sup> Located at the TCEQ website, [http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title\\_V/compliance.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title_V/compliance.pdf).

<sup>27</sup> CAM guidance documents and example CAM plans are located at: <http://www.epa.gov/ttn/emc/cam.html>.

redistribute permit writer workload. To address future staffing levels, KDHE hired a full-time recruiter and began an aggressive recruitment effort on college campuses. The agency is also addressing retention issues by offering professional development opportunities for existing permit writers and is developing a formal training policy. Currently, KDHE sends its staff to training programs offered by the Central States Air Resources Agencies (CenSARA); MDE's permitting staff attend various types of training, including MACT training, sponsored by the Mid Atlantic Regional Air Management Association (MARAMA).

MPCA's primary effort consists of working through legislative channels to expand agency resources for processing construction permits, thereby reducing the level of competing demands on existing staff. MPCA is using its Title V fees to hire unclassified employees to fill immediate vacancies; temporary funds are being used to conduct a pilot program to employ and train engineering students to assist permit writers as needed. The agency provides permit writers the opportunity to earn overtime pay through a state-funded compensation program and a separate program funded by applicants intended to accelerate the processing of construction permits. By its own estimation, MPCA's reliance on private contracting firms has not necessarily eased permitting staff workload or expedited Title V permit issuance. Although contractors demonstrate proficiency when assessing the technical components of applications, agency staff have had to step in to assist contractors with interpreting rule applicability and administrative issues; they also have responsibility for managing the contracts.

Agencies have implemented management practices to reduce competing priorities and increase the efficiency of existing agency resources. FL DEP, KDHE, MDE, MPCA, and TCEQ report that they actively manage the workload among permit writers to achieve balance and facilitate timely permit issuance. FL DEP managers and permit writers generate reports from the agency's database to monitor progress on assignments and prioritize their workload in accordance with advancing deadlines. To ensure that its writers have a predictable and consistent workload, KDHE is attempting to limit the number of Title V permits issued each year to 20% of Title V facilities. When workload becomes an issue for MDE's permit writers, their manager reassigns permit renewals to other writers or works on them herself; a technical support division assists writers with administrative tasks such as preparing permit support documents and public notices. Both MDE and UT DEQ have begun the process of converting their current database to the TEMPO data management system, which will allow the agencies to better track the interim steps in the issuance process. In addition, MDE has implemented standard procedures for drafting Title V renewals. MPCA has also implemented standard procedures for the management of projects and team communication to improve the ability of stakeholders in the permit issuance process (e.g., management, legal counsel, other permit writers, technical support staff, and EPA) to plan for and act in accordance with preferred issuance timeframes. The agency holds regular forums at which its writers, technical support staff, and leadership team meet to discuss permitting issues, standardize permitting procedures, and make policy and management decisions.

Taking a slightly different tack, NJDEP is pursuing Title V permitting efficiency through a reorganization effort. The agency, which formerly divided its permitting staff into two separate bureaus – one for preconstruction permits (Title I) and one for operating permits (Title V and Title I) – is converting to a facility management approach. Under this new structure, each permit

writer will assume responsibility for all construction and Title V permits issued for a major source. The agency anticipates that the reorganization will lead to closer working relationships and a transfer of knowledge between Title V staff and engineers more experienced with Title I, ultimately resulting in reduced issuance times for SPMs.

The incorporation of standardized language and permit terms is another timesaving measure employed by agencies. Standardized terms and conditions, as well as the DSS flowcharts used by permit writers to determine applicable rules for individual emissions units, helped TCEQ improve timeliness. FL DEP, MDE, and MPCA also report using standardized language and conditions. FL DEP standardized NESHAP permit conditions for use by permit writers working in its six district offices. MPCA developed templates to facilitate its technical review as well as the preparation of statements of basis, fact sheets, and public notices. Written procedures and guidance documents, which agency staff regularly maintain and update, have been established to assist permit writers with the drafting process.

Frustration with both the quality of renewal and SPM applications and the lack of responsiveness of applicants to agency requests for information needed to correct deficiencies has prompted many agencies to seek creative solutions. All ten agencies count enforcement actions (see Table 3-6) as tools to use against facilities that fail to provide requested information, although few resort to enforcement except in the most severe cases of facility non-cooperation. NJDEP noted, however, that the act of merely invoking an application denial has elicited greater responsiveness among facilities. Most agencies rely instead on direct outreach to facilities before and after applications are received to prevent content deficiencies, improve facility responsiveness, and avoid protracted negotiations over permits terms. BAAQMD and MDE find it helpful to call applicants when following-up on requests for additional information. MDE encourages permit writers to do their own facility inspections or attend annual inspections conducted by the agency's compliance staff. TCEQ hosts a trade fair and seminars at which permitting staff answer questions and provide guidance to facilities and other interested parties. MPCA takes a very proactive approach to facility outreach that involves a considerable amount of direct contact. Permit writers conduct site visits, conduct face-to-face conversations with applicants, and, in general, try to be persuasive when requesting information. Facilities that participate in the Six Sigma Project receive education on their joint responsibilities, e.g., providing correct information up-front and the need to be responsive to agency requests.<sup>28</sup> The agency expressed hope that this ethic will positively influence facilities' conduct when they apply for Title V permit renewals and SPMs.

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<sup>28</sup>MPCA embarked on the Six Sigma Process Improvement Initiative to increase the efficiency and effectiveness of its agency processes. Information on MPCA's Six Sigma project for air construction permits is located on EPA's website, <http://www.epa.gov/lean/minnesota.htm>. The 2004 *MPCA Quality Management Plan* can be obtained from the MPCA website, <http://www.pca.state.mn.us/publications/reports/qmp.pdf>.

## **Public Comment Period**

In addition to the outreach efforts directed at facilities prior to and during the technical review/permit-drafting step, a few agencies have implemented outreach programs to improve facility relations with community stakeholders before an application for a renewal permit or SPM is submitted. Public outreach is intended to mitigate controversy by addressing citizen concerns early in the issuance process and subsequently reduce the likelihood that agencies will receive adverse comments or requests for public hearings. The strategies employed range from informal communications with interested parties to more formal programs designed to engage and educate the public about Title V permits. UT DEQ has worked to educate the environmental community that the public notice period for Title V permits is not the appropriate time to object to a facility's emissions limits or BACT standards. MDE's permitting staff attend community meetings and encourage facilities to improve public relations with members of the community before submitting their renewal and SPM applications. The agency also utilizes alternate dispute resolution methods to address specific stakeholder concerns about facilities located in their communities.

MPCA has launched a formal Community Involvement Project (CIP) to improve public participation in the air permitting process. According to the agency, the initiative has been helpful on several occasions. Permitting staff screen incoming Title V permit applications to identify situations with a heightened level of stakeholder interest. Under the CIP process, MPCA works with facilities to discover community concerns before a permit is issued and initiate a constructive dialogue with community members and other interested parties about their concerns. The CIP encourages facilities to assume responsibility for conducting community involvement activities that build awareness about facility operations, restore trust, and facilitate problem solving. Resolving controversial issues before the agency drafts the permit saves time when responding to comments during the public comment period.

Preparing a response to comments document can be a time-consuming endeavor for agencies that receive a large volume of comments on topics unrelated to a facility's application for a permit renewal or SPM. While public outreach efforts may ultimately deter negative or irrelevant comments, a few agencies employ strategies for directly reducing the time expended to respond to comments once they are received. MDE and TCEQ each have developed comment libraries containing standard responses to the comments generated most frequently during the public comment period. TCEQ commented that its library has helped to streamline responses and has improved consistency and timeliness.

## **EPA Review**

As illustrated in Table 3-8, delays in renewal permit and SPM issuance that result from factors associated with EPA's review occur very rarely, given that a majority of agencies utilize concurrent review or benefit from an expedited review timeframe. When delay occurs, agencies attribute it to the need to switch to sequential review, wait for EPA to decide to waive its review, or wait for EPA to provide comments. The strategies implemented by agencies to deal with potential delay during the EPA review period aim to make the circumstances under which it occurs more predictable. For example, MPCA and Region V have been collaborating on the

development of a memorandum of understanding that would specify the conditions under which EPA will or will not waive its review as well as the process and timeframe for determining whether sequential review is warranted. Currently the agency schedules monthly conference calls with its contacts from Region V to appraise EPA of upcoming permitting issues and send them relevant information on facilities for which sequential review is anticipated. KDHE has entered into an agreement with Region VII that requires EPA to inform the agency within seven days of its intention to review a permit.

### **Impact of Strategies Employed on Timeliness**

This evaluation seeks to identify actions that air permitting agencies could take to improve the efficiency and timeliness of the issuance process for permit renewals and SPMs, but was not designed to directly measure the effectiveness of actions that agencies have taken. Still, data obtained from the on-line questionnaire, follow-up interviews, and supplemental agency materials provide some clues about the efficacy of the strategies employed. We asked agencies during the follow-up interviews about the efficacy of their actions to reduce delay; they provided anecdotal assessments of the efficacy of their actions but not concrete estimates. We noted their impressions, when available, along with descriptions of the strategies employed in the preceding section.

We also examined the relationship between actions taken, specifically, the number of strategies employed by each agency, and the average amount of time it takes the agency to issue permits. Table 3-11 compares the number of strategies employed by each agency (see Table 3-10) with the average days to issue renewal permits and SPMs calculated from agency-supplied data for 2005 (see Appendix E).

**Table 3-11 Relationship Between Strategies Employed and the Calculated Average Days to Issue Permits for 2005<sup>1</sup>**

Agency	Number of Strategies Employed					Average Days to Issue 2005	
	Administrative Review and Application Completeness	Technical Review and Permit Drafting	Public Comment Period	EPA Review	Agency Total	Renewals	SPMs
MPCA	2	6	1	2	11	312	N/A
MDE	1	4	2	0	7	269	N/A
TCEQ	3	3	1	0	7	217	219
KDHE	2	3	0	1	6	248	243
FL DEP	1	4	0	0	5	273	202
UT DEQ	2	1	1	0	4	174	N/A
NJDEP	1	2	0	0	3	330	166
BAAQMD	1	1	0	0	2	360	N/A
CT DEP	0	0	0	0	0	375	N/A
OR DEQ	0	0	0	0	0	312	N/A

**Note:**  
<sup>1</sup>Agencies are sorted by the total number of strategies employed, from most to least.

An informal analysis of the degree of association between the number of strategies employed and the corresponding average number of days to issue permit renewals calculated for 2005 suggests an inverse relationship between the two variables, i.e., agencies that employ more strategies tend to take less time, on average, to issue their renewal permits. We noted the opposite relationship between the number of strategies and average issuance time calculated for SPMs, i.e., agencies that employ more strategies tend to take more time, on average, to issue SPMs. We urge caution when interpreting these findings, however, due to the limitations of our analysis, which include: the small sample of agencies studied that provided issuance data, especially for SPMs, and the potential data inaccuracies or omissions in agency responses to the questionnaire and interviews. Further, we cannot draw any conclusions about a causal relationship between agency actions and timely permit issuance based on their degree of association. A subsequent study, designed to ensure statistical rigor, would be needed to confirm the direction and degree of any association between the variables as well as provide more insight into cause and effect.

### **Recommendations for EPA**

In addition to identifying their own strategies, agencies recommended actions that EPA could implement to help improve the timeliness of permit renewal and SPM issuance. The recommendations generally reflect agency concerns about delays resulting from facilities submitting incomplete applications, which require extensive agency follow-up and input from EPA. Table 3-12 presents agency recommendations organized into four broad categories: information resources, regulatory clarity, EPA responsiveness, and draft permit review.

**Table 3-12 Agency Recommendations for EPA to Help Improve Timely Permit Issuance**

<b>Category</b>	<b>Recommendation</b>	<b>Agency</b>
<b>Information Resources</b>	Develop a model CAM plan to aid sources.	<b>CT DEP</b>
	Generate information on good emissions factors.	<b>MPCA</b>
	Create a one-stop shop for CAM plans.	<b>UT DEQ</b>
	Provide CAM training for facilities and consultants.	
<b>Regulatory Clarity</b>	Clarify CAM plan requirements and MACT applicability.	<b>KDHE</b>
	Publish "minimum" requirements for appropriate monitoring and recordkeeping.	<b>NJDEP</b>
	Revise Part 70 modification "tracks" to allow for more "off-permit" changes.	
	Simplify federal regulatory requirements.	<b>OR DEQ</b>
<b>EPA Responsiveness</b>	Decrease the time needed to determine applicable monitoring requirements for source.	<b>BAAQMD</b>
	Limit the time EPA can take to respond to state agency information requests.	<b>FL DEP</b>
	Increase responsiveness of regional SIP group on issues involving modeling and SIP conditions.	<b>MPCA</b>
	Increase responsiveness to plant wide applicable limits, determination for NESHAP and NSPS.	
<b>Draft Permit Review</b>	Specify conditions under which EPA will or will not review a permit.	<b>MPCA</b>
	Limit delays from the Region V Environmental Appeals Board.	
	Notify agencies when EPA knows it will not comment on a proposed permit.	<b>NJDEP</b>
	Decrease the time a permit draft is held for review.	<b>OR DEQ</b>
	Limit the time EPA has to review draft permits. EPA could provide notification if they do not plan to review the permit or provide a list of permits they do want to review. Allow TCEQ to switch to a sequential review only if the draft permit is changed based on comments received. EPA would need to agree that such a change would not result in a program deficiency.	<b>TCEQ</b>

A majority of recommendations direct EPA to act more expeditiously in response to agency requests for assistance, or when completing its review of proposed permits. This reflects agency frustration over inconsistencies in the speed with which EPA offices give feedback or communicate their intentions. Agencies note the need to improve EPA's responsiveness to requests for input on applicability determinations, yet none ranked the lack of EPA responsiveness as a significant contributor to delay.<sup>29</sup>

Agency recommendations pertaining to the availability of information resources and regulatory clarity underscore the confusion and difficulties that agency permit writers confront when attempting to interpret regulatory requirements on behalf of facilities. They may also signify a lack of agency awareness about the technical assistance available from EPA or agency dissatisfaction with existing guidance. For example, UT DEQ refers facilities to EPA's Emissions Monitoring Center for technical assistance and examples of CAM plans. Still, its recommendations to EPA for expanding its CAM resources to include a "one-stop shop" for

<sup>29</sup>Agencies ranked the degree of delay resulting from the "lack of responsiveness of EPA" when drafting permit renewals and SPMs no higher than "3" on a 5-point scale, where a "1" signifies the most contribution to delay and "5" the least.

CAM plans and more CAM training opportunities for facilities and consultants suggest that EPA's current efforts could be improved. Improvements in regulatory clarity would reduce delays in the permit issuance process at the outset by helping facilities prepare higher quality applications. These improvements would also enable agencies to resolve applicability questions, when they arise, without additional input from EPA.

The results of this evaluation demonstrate that state and local air permitting agencies can issue timely permit renewals and significant permit modifications (SPMs) under most circumstances. Agency permit issuance data support this conclusion and further indicate that agencies have demonstrated significant improvement in issuing timely renewal permits and SPMs over the past five years. Despite this progress, agencies continue to face delays at various steps in the issuance process. In response, a number of agencies have taken remedial actions and have also identified ways that EPA could assist them in their efforts.

Based on our analysis of the collected data and conversations with agencies and EPA staff, we offer the following recommendations to the OAQPS' Operating Permit Group for ways that EPA can facilitate the timely issuance of permit renewals and SPMs. We also present a set of innovative practices directed at state and local agencies that highlights the strategies employed elsewhere to improve timely permit issuance. Finally, we identify potential criteria that agencies could use to evaluate these strategies for appropriateness and feasibility in their issuance process.

## RECOMMENDATIONS TO EPA

**Recommendation 1: Consider offering more direct technical assistance and guidance to the regulated community and state and local air permitting agencies on CAM and regulatory applicability.**

Agencies noted that incomplete permit applications and the subsequent appeals to, and negotiations with applicants to obtain required information, are primary contributors to delay. These agencies further identified deficiencies in CAM plans and resultant applicant misinterpretations of regulatory requirements as the chief cause of application incompleteness.

In light of these findings, and the agencies' own recommendations, OAQPS should consider ways to expand its technical assistance, including the following:

- **Provide more training opportunities for permitted facilities, consultants, and agency permit writers on CAM and MACT.** EPA-sponsored training for permitted facilities and permit writers would ensure that applicants (and their consultants) have the specialized knowledge needed to prepare adequate CAM plans or make sound regulatory applicability determinations in their applications. Presently training opportunities sponsored by professional organizations and regional consortia have not been open to the private sector and few agencies have the expertise or resources available to conduct this level of training themselves. Advanced training for permit writers would help agencies

build staff expertise on CAM and the more complicated MACT standards; it would also enable them to resolve disputes with applicants more effectively without having to seek input from EPA.

- **Update guidance on regulatory requirements and applicability.** A number of agencies requested EPA provide further clarification on CAM plan requirements, appropriate monitoring and recordkeeping requirements, and MACT applicability. The development of guidance targeted at the preparation of regulatory determinations for permit applications would serve to both complement training programs for permittees and further assist agency permit writers during the application review and permit drafting steps in the issuance process.
- **Develop more comprehensive and useful information resources for CAM.** Agencies recommended that EPA develop a “one-stop shop” for model CAM plans. Example CAM plans and related documents are currently available on OAQPS’ Emission Measurement Center (EMC) web site.<sup>1</sup> One agency already refers permit applicants to this site for examples of CAM plans; however, this same agency also recognizes the need to make these resources more accessible and useful to the regulated community. Currently, the organization and identification of documents on the EMC web site makes finding example CAM plans and supporting guidance difficult. OAQPS could facilitate more direct access to existing documents by creating a user-friendly, searchable interface or database from which permittees and permit writers could select the information most pertinent to a particular source.

**Recommendation 2: Consider developing guidelines for EPA Regions that clarify the authority of state and local permitting agencies to utilize concurrent EPA review and the circumstances under which sequential review is warranted.**

A majority of agencies indicated that EPA’s review does not contribute significantly or frequently to delays in the final issuance of either permit renewals or SPMs. This perception may be influenced in part by the agencies’ experience with concurrent review, which has helped to streamline the draft permit review process and expedite final permit issuance. While the adoption of concurrent review can contribute to timely permit issuance, a number of agencies – particularly those that have yet to implement concurrent review – stressed the need for EPA Regions to specify the circumstances under which they would decline to review draft permits, the mechanisms for notifying agencies of EPA’s decision to waive its review, and the maximum timeframes for completing a sequential review.

Given the positive impact of concurrent review on permit issuance timeframes, OAQPS could take steps to facilitate its adoption by state and local agencies. Guidance that clarifies and/or establishes the authority of all EPA regions to approve concurrent review would provide the backing needed by the Regions to promote its use by more agencies. The guidance should also clarify the circumstances that may arise during the public comment period, e.g., receipt of germane comments versus significant adverse comments, which would necessitate switching to a

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<sup>1</sup> Located at, <http://www.epa.gov/ttn/emc/cam.html>.

sequential review; as well as, establish broader performance goals for timely Regional review when a sequential review is required.

OAQPS could alternatively encourage the establishment of Memoranda of Agreement (MOA) between agencies and Regions that incorporate similar review guidelines on a state-by-state basis. A number of agencies have already entered into MOA with their Regions and others are waiting to implement them. OAQPS could take the lead on promoting these agreements among agencies and Regions that have yet to pursue concurrent review.

**Recommendation 3: Consider adopting protocols to promote greater EPA responsiveness to state and local permitting agency requests for input or assistance.**

Additional training opportunities, expanded technical assistance, and improved guidance aimed at the regulated community should ultimately reduce agency reliance on EPA for regulatory interpretation; however, situations will continue to arise when agencies will require input from EPA Regions and/or OAQPS. Assistance would most likely be needed during the selection of applicable monitoring requirements and for MACT, NESHAP, and NSPS determinations. Although agencies did not identify a lack of EPA responsiveness to requests as a problem, many still requested that EPA respond more expeditiously and consistently in its interactions with agencies pertaining to permit content and issuance. One way that OAQPS could help promote responsiveness is to develop internal protocols or procedures that establish optimal timeframes for its staff and EPA Regional staff to address agency appeals and requests for assistance.

**Recommendation 4: Consider establishing a clearinghouse of innovative Title V permitting practices to facilitate the exchange of ideas across EPA Regions and state and local air permitting agencies.**

As part of an effort to upgrade its permit-related technical assistance and outreach, OAQPS could develop a web-based portal containing links to a clearinghouse of innovative permitting practices adopted by agencies and EPA Regions, in addition to CAM plans and guidance on regulatory interpretation and applicability. Such a clearinghouse could include comprehensive descriptions and agency contact information for the strategies identified in this evaluation as well as for other approaches to enhance Title V permitting efficiency that have been employed by the broader population of agencies and EPA Regions. To facilitate implementation of these best practices, OAQPS could also provide technical assistance to agencies to help them assess the appropriateness and feasibility of each strategy. This technical assistance may include the development of feasibility criteria and a decision framework or matrix that agencies could use along with the criteria to conduct their assessment.

## INNOVATIVE PRACTICES FROM STATE AND LOCAL AIR PERMITTING AGENCIES

In this section we highlight some of the more innovative strategies that agencies have implemented to mitigate delays in, and improve the efficiency of the issuance process for permit renewals and SPMs. Other state and local air permitting agencies may benefit from adopting these approaches to address delays in their own issuance processes. We have organized these strategies topically according to the steps in the issuance process where they have been utilized.

### Administrative Review and Application Completeness

- **Streamlined Application Forms and Support Documents.** Many agencies have updated their application forms to include questions and checklists on CAM and MACT applicability. For example, TCEQ developed a Decision Support System (DSS) to assist facilities with preparing their applications and its permit writers with reviewing applications. The DSS consists of a series of flow charts that help facilities determine all applicable rules, including MACT options, for each emissions unit. The DSS is available at the TCEQ website and is tied into the agency's electronic application forms.<sup>2</sup> TCEQ also developed a CAM guidance document containing a list of pre-approved CAM options that applicants can choose from when preparing their plans.<sup>3</sup> After making their preliminary selection, applicants can work with permit writers later in the permit-drafting step to identify the most appropriate option.
- **Combined Administrative and Technical Review.** Both TCEQ and FL DEP conduct their administrative and technical review of permit applications at the same time. Through this integrated approach, the agencies base their completeness determinations on a more thorough review of application content rather than administrative details. The combined review has the advantage of reducing the number of times permit writers have to review applications, solicit additional information from applicants, and wait for applicants to respond. For example, once the agency deems a renewal application incomplete, it effectively delays the onset of the permit application shield. Such a delay may provide additional incentive for applicants, particularly those with permits close to expiration, to submit complete applications from the start or respond promptly to agency solicitations for more information.

### Technical Review and Permit Drafting

- **Increased Staff Resources Dedicated to Title V Permits.** MPCA has initiated a number of creative approaches to increase the number of permitting staff dedicated to Title V permits and the proportion of time spent by existing staff on non-Title V permits. The agency's primary efforts consist of reducing the level of competing demands on permit writers by maximizing the efficiency of its authorization process for construction permits and expanding its staffing resources. MPCA has seen the issuance cycle time for

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<sup>2</sup> Located at, [http://www.tceq.state.tx.us/permitting/air/nav/air\\_supportsys.html](http://www.tceq.state.tx.us/permitting/air/nav/air_supportsys.html).

<sup>3</sup> Located at, [http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title\\_V/compliance.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/Title_V/compliance.pdf).

construction permits decrease following implementation of its Six Sigma Project in January 2005.<sup>4</sup> To counter its high rates of staff attrition, the agency has begun using Title V fees to hire unclassified workers to fill immediate vacancies and has secured temporary funds to pilot a program to employ and train engineering students as-needed. MPCA also provides existing permit writers the opportunity to earn overtime pay through a state-funded compensation program and a separate, applicant fund established to accelerate the processing of construction permits.

KDHE has taken steps to address current and future staffing levels for Title V permit writers. These include hiring a full-time recruiter and conducting an aggressive recruitment effort on college campuses. The agency is also addressing staff retention by developing a formal training policy for existing permit writers.

- **Workload Management and Monitoring.** To ensure that its permit writers have predictable and consistent workload, KDHE is attempting to limit the number of Title V Permits issued each year to 20% of its Title V facilities.

MPCA has implemented standard procedures to guide project management and team communication for the purpose of helping stakeholders in the permitting process (e.g., agency management, legal counsel, other permit writers, technical support staff, and EPA) anticipate and act in accordance with preferred issuance timeframes.

- **Standardized Permit Conditions and Support Documents.** FL DEP, MDE, MPCA, and TCEQ have developed standardized permit language and conditions to streamline permit drafting. MPCA permit writers use templates to facilitate their technical review and the preparation of statements of basis, fact sheets, and public notices. Permit writers at TCEQ use the DSS flowcharts to determine applicable rules.

## Public Comment Period

- **Public Outreach and Participation.** Both MDE and MPCA have taken an active role in addressing public concerns about Title V permits. If not addressed, these concerns can generate many adverse comments during the public comment period and lead to requests for public hearings. MPCA has initiated a formal Community Involvement Project (CIP) to improve community outreach and public participation in the permitting process. Under the CIP, permitting staff screen incoming Title V applications to identify facilities and situations with heightened stakeholder interest. MPCA then works with these applicants to discover community concerns before a draft permit is issued and initiate a constructive dialogue with community members and other interested parties about their concerns. The CIP encourages facilities to assume responsibility for conducting community involvement activities that build awareness about facility operations, restore trust, and facilitate problem solving.

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<sup>4</sup>MPCA embarked on the Six Sigma Process Improvement Initiative to increase the efficiency and effectiveness of its agency processes. Information on MPCA's Six Sigma project for air construction permits is located on EPA's website, <http://www.epa.gov/lean/minnesota.htm>. The 2004 *MPCA Quality Management Plan* can be obtained from the MPCA website, <http://www.pca.state.mn.us/publications/reports/qmp.pdf>.

MDE permitting staff attend community meetings and utilize alternate dispute resolution methods to address stakeholder concerns. The agency also encourages facilities to conduct outreach to members of the community prior to submitting their permit renewal and SPM applications.

- **Response to Comments.** MDE and TCEQ have developed comment response libraries to facilitate the rapid preparation of responses to frequently submitted comments.

### **EPA Review**

- **Communication with EPA.** In an effort to improve EPA responsiveness during its review of proposed permits, MPCA communicates upcoming permitting issues and shares relevant information on permit applications for which sequential review is anticipated with Region V during monthly calls.

KDHE has established an agreement with EPA Regions VII that requires the Region to notify the agency within seven days if it will review a permit or not.

### **POTENTIAL CRITERIA FOR EVALUATING STRATEGY FEASIBILITY**

This evaluation focuses on the timeliness of state and local air permitting issuance processes for permit renewals and SPMs as well as the procedures and other factors that influence timeliness at each step in their processes. We did not, however, analyze the effectiveness or feasibility of the strategies discussed in Chapter 3 or listed in Appendix F. We recognize that agencies interested in pursuing these strategies may first want to determine which are the most useful given their particular circumstances. To help agencies make this determination, we have identified a number of possible criteria that agencies could use to evaluate the feasibility of implementing a particular strategy. Table 4-1, below, lists these criteria.<sup>5</sup>

As a first step in the process of identifying an appropriate strategy, agencies should identify where delay occurs in their permit issuance process and the factors that contribute to this delay. Agencies should then consider the kinds of agency inputs that may be needed to implement the strategy. In addition to direct costs, such as labor, materials, and training, agencies may want to consider the institutional changes and external partnerships that may be required to support the strategy's implementation. Agencies may also benefit from investigating existing programs initiated to improve permitting efficiencies or facility performance that could be expanded or adapted for use in Title V permitting. Finally, agencies should keep in mind the expected short- and long-term outcomes each strategy will likely produce.

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<sup>5</sup> We intended for Table 4-1 to provide examples of relevant criteria, but not a definitive list. Agencies may identify other criteria that are more germane to their permitting programs and particular circumstances.

**Table 4-1 Possible Criteria for Assessing the Feasibility of Strategies to Reduce Permit Issuance Delays**

Agency Inputs			External Partnerships	Anticipated Outcomes
Institutional Changes	Direct Costs	Existing Efficiency Initiatives		
<ul style="list-style-type: none"> <li>• Prior authorization</li> <li>• Rule additions/modifications</li> <li>• Procedural modifications/adaptations</li> <li>• Memoranda of agreement with EPA and/or other entities</li> <li>• Agency reorganization</li> <li>• Data management upgrade</li> </ul>	<ul style="list-style-type: none"> <li>• Staff FTEs</li> <li>• Compensation</li> <li>• Travel</li> <li>• Training</li> <li>• Materials</li> <li>• Computer and information resources</li> </ul>	<ul style="list-style-type: none"> <li>• Permitting efficiency efforts</li> <li>• Total quality management</li> <li>• Lean</li> <li>• Six Sigma</li> <li>• Environmental excellence programs</li> </ul>	<ul style="list-style-type: none"> <li>• Regulated community</li> <li>• Trade associations</li> <li>• Air pollution control organizations</li> <li>• EPA Regions</li> <li>• EPA Headquarters</li> </ul>	<ul style="list-style-type: none"> <li>• Complete applications</li> <li>• Enhanced communication with applicants</li> <li>• More efficient processing of applications</li> <li>• Fewer public comments received</li> <li>• Faster turnaround for EPA review</li> <li>• Minimization of delay at different steps in the issuance process</li> <li>• More permits issued “on time”, i.e., under 540 days</li> <li>• Shorter issuance timeframes</li> </ul>

## APPENDIX A

### State and Local Air Permitting Agency Title V Permit Timeliness Questionnaire

#### Log In Page:

Thank you for taking the time to participate in this survey. Before you begin, please disable any popup blockers currently running on your computer. After you have disabled your popup blocker, please enter your ID number (as provided in the survey notification email) into the Login box below. A new window will open with instructions and the TMDL survey.

Note: This survey is best viewed with display resolution set to **1024 by 768 pixels**. To change your display resolution, go to the Control Panel folder, select Display, and click on the "Settings" tab. Adjust the "Screen Area" bar to 1024 by 768.

#### Intro Page:

#### EPA Permit Timeliness Study

As of the end of 2005, a number of States appear to face challenges in issuing permit renewals of Title V permits within five years after the initial permit or within the regulatory deadline of 18 months after receipt of a complete application. EPA's Office of Air Quality Planning and Standards in partnership with the Office of Policy Economics and Innovation is initiating this study to gather more information about the underlying causes and the extent of the delay in issuing permit renewals. In addition, we want to gather information about the timeliness of issuing significant permit modifications and the underlying causes of any delay.

We have developed this on-line questionnaire for several purposes: 1) to better understand the process for issuing permit renewals and significant permit modifications; 2) to get an accurate picture of the permit renewal and significant permit modification process at your agency; 3) to get your view of potential barriers to issuing timely renewals and significant permit modifications at your agency; and 4) to solicit your recommendations for developing a plan to expedite your agency's permit issuance.

The questionnaire is comprised of 38 questions organized into five main sections which correspond to each phase of the permit issuance process: 1) General Programmatic Issues; 2) Renewal Application Timeliness and Completeness; 3) Drafting Permit Renewals and Significant Permit Modifications; 4) Public Comment; and 5) EPA Review. We estimate that it will take you approximately 30 minutes to enter your responses.

#### Instructions for Completing the Questionnaire

The questions pertain to the policies and procedures established by your agency that may affect the timeliness of permit renewals and significant permit modifications. We have supplied your agency with a text version of the questionnaire and recommend that you discuss the questions with other members of your staff and consult with them when formulating your agency's responses. Once you are ready to complete the on-line questionnaire, we ask that you select the

response for each question that most accurately characterizes your agency, on average, rather than the actions or activities of individual staff. In instances where the question asks you to select from among a range of responses, (e.g., percentages), we ask that you provide the best estimate for your agency overall.

In the notification email you received, you were provided with an ID number. This ID is unique to the individual chosen to complete the survey on behalf of his or her agency. The ID will be used only for the purposes of survey administration. While agency identifiers will be linked to the questionnaire responses and will be used for the purposes of data analysis, individual names will not. We are hopeful that this degree of confidentiality will encourage your staff to provide us with candid answers in order to improve the Title V Program.

If you experience any difficulties, please contact **Heather Posner** at Industrial Economics, Inc. (IEc) by email at **hposner@indecon.com** or by phone at **(617) 354 0074**. (IEc has been contracted to assist EPA with the evaluation and to administer this survey.)

Please click Next >> to begin the survey.

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**Overarching Question: What are the timeliness characteristics of the state and local Title V permit renewal and significant permit modification process, and how might EPA and permitting authorities expedite issuance of permit renewals and significant permit modifications?**

General Programmatic Issues

1. Is your agency still issuing original Title V permits? Yes \_\_\_\_\_ No \_\_\_\_\_
2. Is the ongoing issuance of original permits affecting the ability of your agency to issue the following on time? (Select one response for each.)

	Yes	No
Permit renewals		
significant permit modifications		

- 
3. If yes, explain in the space below how this is affecting the issuance of permit renewals and significant permit modifications.

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*Timeliness and Completeness of Renewal Applications*

4. What is the primary action taken by your agency before renewal applications are due to ensure that facilities submit them on time? (Choose one.)
- a. mail a reminder to the facility
  - b. call the facility
  - c. mention the application deadline during an inspection or on-site visit.
  - d. no action taken, rely on facility to submit renewal within timely manner
  - e. other \_\_\_\_\_.

- 
5. The majority of permit renewal applications submitted to your agency are received (select one):
- a. on-time (i.e., six months before permit expiration or earlier date required by your program)
  - b. up to three months late
  - c. up to six months late
  - d. up to one year late
  - e. over a year late

- 
6. Has your agency established procedures to notify facilities when they miss the deadline for submitting their permit renewal applications? Yes \_\_\_\_\_ No \_\_\_\_\_

- 
7. If yes, please describe in the space below, the action taken by your agency to notify facilities about late applications.

- 
8. What is the primary action taken by your agency before renewal applications are due to ensure that applications submitted are complete? (Choose one.)
- a. no action taken
  - b. mail a form letter and/or other information detailing the information required in the renewal application
  - c. distribute model renewal applications
  - d. hold pre-application meetings
  - e. conduct industry training sessions
  - f. other \_\_\_\_\_.

---

9. What percentage of permit renewal applications are found to be administratively complete following your agency's administrative review? (Choose one.)

- a. less than 25%
  - b. 25% to 50%
  - c. 51% to 75%
  - d. more than 75%
- 

10. Has your agency established an earlier deadline than the regulatory deadline of 60 days for notifying a facility that its renewal application requires additional information before the application is automatically deemed to be "complete"? Yes \_\_\_\_\_ No \_\_\_\_\_

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11. If yes, what is the deadline established by your agency? (Choose one.)

- a. up to 30 days
- b. up to 45 days
- c. up to 60 days
- d. other \_\_\_\_\_

12. Indicate the frequency with which the following factors each contributes to renewal applications being found administratively incomplete during the review conducted by your agency. (Select one response for each.)

	almost always contributes	often contributes	sometimes contributes	seldom contributes	almost never contributes
Lack of clear instructions, detailed criteria, or technical guidance provided to facilities for preparing complete renewal applications.					
Applicants are unsure or confused about how to interpret changing federal regulatory requirements (e.g., CAM, MACT, etc.) and how to incorporate them into renewal applications.					
Ongoing litigation or enforcement actions against an applicant.					
Your agency's relationship with the applicant.					
Other (enter in space provided).					
For each of the factors above that often or almost always contribute to renewal applications being found administratively incomplete, discuss in the space below recommendations for ways to minimize its impact.					

Drafting Permit Renewals and Significant Permit Modifications

13. What percentage of applications found to be administratively complete following your agency's review were found during a later technical review to be lacking additional information needed to draft the renewal or modification? (Select one response for each.)

	less than 25%	25% to 50%	51% to 75%	more than 75%
permit renewals				
significant permit modifications				

---

14. When additional information is requested from the facility for a *permit renewal*, how much time is given to the applicant to respond? (Choose one.)

- a. no deadline established
  - b. up to 15 days
  - c. up to 30 days
  - d. up to 60 days
  - e. other \_\_\_\_\_
- 

15. When additional information is requested from the facility for a *significant permit modification*, how much time is given to the applicant to respond? (Choose one.)

- a. no deadline established
  - b. up to 15 days
  - c. up to 30 days
  - d. up to 60 days
  - e. other \_\_\_\_\_
- 

16. How long, on average, does it take applicants to provide the additional information requested by your agency for the following? (Select one response for each.)

	15 days or less	15-30 days	31-45 days	46-60 days	more than 60 days
permit renewals					
Significant permit modifications					

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17. Describe in the space below, the consequences imposed on a facility if the additional information needed for the application is not received by the deadline established by your agency.

18. For *permit renewals*, indicate the frequency with which the following factors each contributes to the need for facilities to provide additional information during the permit renewal drafting phase. (Select one response for each.)

	almost always contributes	often contributes	sometimes contributes	seldom contributes	almost never contributes
Incomplete or insufficient administrative or technical completeness review conducted prior to permit drafting phase.					
Applications automatically deemed "complete" (i.e., facilities not promptly solicited for additional information by the deadline) are not in fact complete.					
The information needed changes between the conclusion of the administrative completeness review and permit drafting phase (e.g., due to regulatory changes, operational changes, etc.).					
The level of detail and accuracy of federal regulatory requirements (e.g., CAM, MACT, etc.) addressed in the application is insufficient.					
Other (enter in the space provided).					
For each of the factors above that often or almost always contribute to the need for more information, discuss in the space below recommendations for ways to minimize its impact.					

19. For *significant permit modifications*, indicate the frequency with which the following factors each contributes to the need for facilities to provide additional information during the significant permit modification drafting phase. (Select one response for each.).

	almost always contributes	often contributes	sometimes contributes	seldom contributes	almost never contributes
Incomplete or insufficient administrative or technical completeness review conducted prior to permit drafting phase.					
Applications automatically deemed "complete" (i.e., facilities not promptly solicited for additional information by the deadline) are not in fact complete.					
The information needed changes between the conclusion of the administrative completeness review and permit drafting phase (e.g., due to regulatory changes, operational changes, etc.).					
The level of detail and accuracy of federal regulatory requirements (e.g., CAM, MACT, etc.) addressed in the application is insufficient.					
Other (enter in the space provided).					
For each of the factors above that often or almost always contribute to the need for more information, discuss in the space below recommendations for ways to minimize its impact.					

20. What is the average length of time between a determination that an application is complete to when agency staff begin drafting the permit renewal or modification? (Select one response for each.)

	30 days or less	31 to 60 days	61 to 90 days	91 to 180 days	more than 180 days
permit renewals					
significant permit modifications					

21. What is the average length of time it takes your agency to complete drafting the permit renewal or modification from the time it is assigned to a permit writer? (Select one response for each.)

	90 days or less	91 to 180 days	181 days to a year	a year to 18 months	more than 18 months
permit renewals					
significant permit modifications					

22. For **renewal permits**, rank the following internal factors on a scale from 1 to 5, based on the degree to which each contributes to a delay in the time it takes your agency staff to draft renewal permits, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Competing non-Title V workload priorities for permit writers (e.g., construction permits).					
Competing Title V workload priorities for permit writers.					
Lack of training and experience of permit writing staff.					
Lack of responsiveness by others in your agency to requests from the permit writer for approval or input (e.g., management, legal counsel, other permit writers).					
Development of permit support documents prepared by your agency (e.g., statements of basis, fact sheets, public notices, or technical review).					
Other (enter in the space provided).					

For each of the internal factors above that contribute most to a delay in permit processing time for renewal permits, discuss in the space below recommendations for ways to minimize its impact.

23. For **significant permit modifications**, rank the following internal factors on a scale from 1 to 5, based on the degree to which each contributes to a delay in the time it takes your agency staff to draft significant permit modifications, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Competing non-Title V workload priorities for permit writers (e.g., construction permits).					
Competing Title V workload priorities for permit writers.					
Lack of training and experience of permit writing staff.					
Lack of responsiveness by others in your agency to requests from the permit writer for approval or input (e.g., management, legal counsel, other permit writers).					
Development of permit support documents prepared by your agency (e.g., statements of basis, fact sheets, public notices, or technical review).					
Other (enter response in space provided).					
For each of the internal factors above that contribute most to a delay in permit processing time for significant permit modifications, discuss in the space below recommendations for ways to minimize its impact.					

24. For **renewal permits**, rank the following external factors on a scale from 1 to 5, based on the degree to which each contributes to a delay in the time it takes your agency staff to draft renewal permits, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Lack of responsiveness of applicants to agency requests for additional information.					
Negotiations with applicants over permit terms.					
Need to conduct facility inspections or meetings with applicants and/or the public.					
Lack of responsiveness of EPA (e.g., on comments, decisions, or interpretations).					
Other (enter response in space provided).					
For each of the external factors above that contribute most to a delay in permit processing time for renewal permits, discuss in the space below recommendations for ways to minimize its impact.					

25. For **significant permit modifications**, rank the following external factors on a scale from 1 to 5, based on the degree to which each contributes to a delay in the time it takes your agency staff to draft significant permit modifications, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Lack of responsiveness of applicants to agency requests for additional information.					
Negotiations with applicants over permit terms.					
Need to conduct facility inspections or meetings with applicants and/or the public.					
Lack of responsiveness of EPA (e.g., on comments, decisions, or interpretations).					
Other (enter response in space provided).					

For each of the external factors above that contribute most to a delay in permit processing time for renewal permits, discuss in the space below recommendations for ways to minimize its impact.

*Public Comment Stage*

26. How often does the need to **respond to public comments** cause a delay in the time it takes your agency to issue the permit renewal or modification? (Select one response for each.)

	almost always	often	sometimes	seldom	almost never
permit renewals					
significant permit modifications					

27. How often does the need to **hold a public hearing** cause a delay in the time it takes your agency to issue the permit renewal or modification? (Select one response for each.)

	almost always	often	sometimes	seldom	almost never
permit renewals					
significant permit modifications					

28. By how many days, on average, does the need to **respond to public comments** add to the time it takes your agency to issue the permit renewal or modification? (Select one response for each.)

	15 days or less	16-30 days	31-45 days	46-60 days	more than 60 days
permit renewals					
significant permit modifications					

29. By how many days, on average, does the need to **hold a public hearing** add to the time it takes your agency to issue the permit renewal or modification? (Select one response for each.)

	15 days or less	16-30 days	31-45 days	46-60 days	more than 60 days
permit renewals					
significant permit modifications					

30. For **permit renewals**, rank the following factors associated with the public comment period on a scale from 1 to 5, based on the degree to which each contributes to a delay in the timely issuance of permit renewals, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Public requests for hearings or background documents.					
Public notice requirements (e.g., printed notifications, notification to affected states or EPA).					
Need to develop a response to comments document.					
Other (enter response in space provided).					
For each of the factors above that contribute most to a delay in issuance of permit renewals, discuss in the space below recommendations for ways to minimize its impact.					

31. For *significant permit modifications*, rank the following factors associated with the public comment period on a scale from 1 to 5, based on the degree to which each contributes to a delay in the timely issuance of significant permit modifications, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Public requests for hearings or background documents.					
Public notice requirements (e.g., printed notifications, notification to affected states or EPA).					
Need to develop a response to comments document.					
Other (enter response in space provided).					
For each of the factors above that contribute most to a delay in issuance of permit renewals, discuss in the space below recommendations for ways to minimize its impact.					

EPA Review Stage

32. Does your agency use concurrent review? Yes \_\_\_\_\_ No \_\_\_\_\_

33. If yes, indicate whether each of the following factors would prompt your agency to switch to sequential review. (Select one response for each.)

- a. Receipt of any public comments? Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Receipt of a significant or germane public comment? Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Significant public interest concerning a facility's permit? Yes \_\_\_\_\_ No \_\_\_\_\_
- d. Request by EPA for a sequential process? Yes \_\_\_\_\_ No \_\_\_\_\_
- e. Agency decision to use a sequential review? Yes \_\_\_\_\_ No \_\_\_\_\_
- f. Other \_\_\_\_\_

34. On average, how much time is required from the start of the public comment period for a concurrent review to be completed? (Choose one.)

- a. 30 days or less
- b. 31 to 45 days
- c. 46 to 60 days
- d. 61 to 90 days
- e. more than 90 days

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35. On average, how much time is required from the start of the public comment period for a sequential review to be completed? (Choose one.)

- a. 30 days or less
  - b. 31 to 45 days
  - c. 46 to 60 days
  - d. 61 to 90 days
  - e. more than 90 days
- 

36. For *permit renewals*, rank the following factors concerning EPA review on a scale from 1 to 5, based on the degree to which each contributes to a delay in the timely issuance of permit renewals, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Waiting for EPA comments.					
Waiting for EPA to decide whether to waive its review.					
Sending information to EPA.					
Switching from concurrent to sequential review.					
Providing status reports to the public (e.g., whether the review is concurrent or sequential, when EPA review began, etc.).					
Other (enter in space provided).					
For each of the factors above that contribute most to a delay in issuance of permit renewals, discuss in the space below recommendations for ways to minimize its impact.					

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37. For *significant permit modifications*, rank the following factors concerning EPA review on a scale from 1 to 5, based on the degree to which each contributes to a delay in the timely issuance of significant permit modifications, where "1" contributes most to delay and "5" contributes least to delay. (You may assign the same ranking to more than one factor. For example, you may rank two or more factors a "1" if they all contribute most to delay; however, select only one response for each factor.)

	1	2	3	4	5
Waiting for EPA comments.					
Waiting for EPA to decide whether to waive its review.					
Sending information to EPA.					
Switching from concurrent to sequential review.					
Providing status reports to the public (e.g., whether the review is concurrent or sequential, when EPA review began, etc.).					
Other (enter response in space provided).					
For each of the factors above that contribute most to a delay in issuance of significant permit modifications, discuss in the space below recommendations for ways to minimize its impact.					

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*Additional Comments*

38. If you would like to provide additional comments or clarification about your agency's experience with delays in issuing permit renewals and significant permit modifications that were not included in your responses to the previous questions, please enter them in the space provided, below.

**APPENDIX B**

**Supplemental Data and Documents Provided by Air Permitting Agency Respondents**

<b>Agency</b>	<b>Data/Document</b>	<b>Description</b>
<b>BAAQMD</b>	Renewal and SPM data	Spreadsheet includes disposition date, receipt date, and the permit project title.
<b>CT DEP</b>	Permit Application Instructions for Stationary Sources	Instructions for completing the permit application for stationary Title V facilities.
	EPA July 2006 Title V Renewals Report	Spreadsheet with data on permit renewals.
	Compliance Report Evaluation	Checklists for sections including timeliness and completeness.
	Sample Permit Renewal Reminder Letter	Indicates when the permit will expire and when the application is due.
	Sample Notice of Permit Application	Includes certification of notice form and a copy of the legal notice in the newspaper.
	<a href="http://dep.state.ct.us/air2/permit/t5.htm">http://dep.state.ct.us/air2/permit/t5.htm</a>	List of current Title V permit holders as of August 4, 2006.
<b>FL DEP</b>	Sample Letter of Operation	Initial Title V Air Operation Permit including permit number and source location.
	Chapter 62-213 of the Florida Administrative Code	State code for operation permits of major sources of air pollution.
	Title V Permit Application Processing Timeframes	Chart illustrating the time difference of issuance between a complete application received and an incomplete application.
	Renewal and SPM data from 2000-2002 and 2005-2006	Four spreadsheets include data on permit renewals and significant permit modifications.
	3 Sample Renewal Reminder Letters	General notices of permit expiration.
	<a href="http://www.dep.state.fl.us/air/forms/airpermit">http://www.dep.state.fl.us/air/forms/airpermit</a>	Applications for permits and renewals.
<b>KDHE</b>	List of SPM Issuance as of 8-9-06	Spreadsheet with data on SPMs including days to issuance.
	List of Renewals Issued as of 8-9-06	Spreadsheet with data on renewals including days to issuance.
	Sample Permit Expiration Reminder Card	Gives the application due date, permit issuance date and the permit expiration date.
<b>MDE</b>	Administrative Tracking Report	Includes the permit number, facility, permit writer, when the application was due, when it was received and if a receipt was sent.
	Sample Renewal Reminder and Receipt of Application Letters	The receipt of applications letter states that the facility will be notified within 60 days if the application is complete and the reminder indicates the date on which the application is due from the facility.
	Form Regarding Budget Reconciliation and Financing Act of 2003	Provides information to the Agency to ensure that the facility has paid its taxes and is legally able to renew its permit.
	Title V Permit Renewal Application Package	Includes an Introduction, Instructions, Check-off List of Emissions Units and Activities Exempt from the Part 70 Permit Application, Application Forms for Renewal and Application Completeness Checklist.
	Handling Minor New Source Permits to Construct as "On-Permit" or "Off-Permit" Changes	Instructions on how different changes are handled by the agency.

## Supplemental Data and Documents Provided by Air Permitting Agency Respondents

Agency	Data/Document	Description
<b>MDE</b>	Timeline for Part 70 Renewal Process	Timeline has four main steps including Receipt of Application, Review, Predraft Permit and Fact Sheet, and Public Participation, which cumulatively should total four months.
	Outline of Title V Permit Issuance Process and Checklist	A comprehensive list of the standard operating procedures that guide the agency through the permit issuance process.
	Status of Title V Permits	Lists of permits as of August 15, 2006 grouped by those that have been issued, renewed, rescinded, newly applied and issued.
	Sample Notice of Violation	Includes the Consent Order between the facility and the Agency, and the NOV sent to the facility.
	Sample Responses to Comments Document	Issues included future expansion, truck traffic, oil spills, compliance, air monitoring and cancer concerns.
<b>MPCA</b>	Community Involvement Information	List of items for a facility to send the Agency that will be sent out for the Community Involvement initiative.
	The Community Involvement Project Report and Recommendations	Report from April 2003 describing the Community Involvement Project in detail.
	Current Title V Permits	Lists the number of renewal and first time Title V applications as well as the number of major modifications from 6-30-05 to 7-1-06.
	Renewal Permit Application Data	A spreadsheet including data on renewals from 2001-2006 including issuance and receipt dates.
	Title V Permit Process Diagram	Diagram outlining the Agency's process for issuing Title V permits.
	Region 5 Quarterly Title V Permit Data	A list of the number of Title V permit renewals and the number of significant modifications issued for the quarter ending June 2006.
	Six Sigma Project Documents	Documents describing the process improvement project the Agency has undertaken.
	Agency Guidance on Air Quality Permit Consultation with Indian Tribal Governments	Outlines the process for permit review with Tribal Governments and the Agency.
	Sample Reissuance Application Packet for expiring Part 70 Air Emissions Permits	Includes sections on miscellaneous items, general information, compliance, facility specific items and emissions calculation.
	Sample Permit Expiration Reminder Letters	Information the Agency already has on the existing permits is included with the letters along with the instructions to send the application 180 days before the permit expires.
<b>NJDEP</b>	Sample Permit Expiration Reminder Letter	Reminder letter to facilities that their permit is going to expire.
	Significant Modification and Renewal Operating Permit Report	Lists of approved, superseded, expired, denied, pending, terminated and withdrawn permits with application receipt and issuance data.
	Backlogged Renewals for Operating Permits Through June 2006	Charts of backlogged and pending renewals by month, year.
	Backlogged SPMs for Operating Permits Through June 2006	Charts of backlogged and pending SPMs by month.

## Supplemental Data and Documents Provided by Air Permitting Agency Respondents

Agency	Data/Document	Description
	Statewide Permit Activity for the First Two Quarters of 2006	Table of statewide annual and quarterly permit program issuance numbers.
<b>NJDEP</b>	Permit Renewal Application Forms Package	Includes forms to indicate facility changes, compliance status and emission changes.
<b>OR DEQ</b>	Renewal of Operating Permit Notice	Notice is sent 18 mos. prior to permit expirations when rule requires the application to be submitted 12 mos. before expiration.
	Sample Notice Indicating Application Receipt	Informs the facility about the permit shield and the application number for future reference.
	Timeliness of Outstanding DEQ-AQ Permit Applications by Region	Table includes a column of days until (past) target, four applications went past their target dates.
<b>TCEQ</b>	Renewal Notification Document	A permit renewal notification for a site operating permit indicating the renewal date and submission date.
	Sample Renewal Notification Letters	Indicates when the permit will expire, and when the Agency expects to receive the applications.
	Permit Renewal and SPM Issuance Status Report	Includes application receipt date, days until issuance for SPMs and renewals issued since June 2005.
	TCEQ Regulatory Guidance- Site Operating Permit Renewals	Assistance/technical guidance to operators with a Federal Operating Permit.
	Site Operating Permit Technical Review Fact Sheet	Instructional guidelines for applicants with Title V site operating permit initial issuance, renewal, minor or significant modifications project during the technical review.
	Working Draft Permit Review Fact Sheet	Instructional guidelines for applicants with Title V site operating permit initial issuance, renewal, minor or significant modifications project during the permit-drafting phase.
<b>UT DEQ</b>	Permit Renewal Tracking Spreadsheet	List of permit renewals and their received dates; a list of renewals that were delayed.
	Renewal Application Instructions	Guidelines to assist facilities in completing their renewal applications.
	Renewal Application Data	List of permits with their due date, receipt date, and issuance date.
	Sample Application Completeness Checklist	Internal checklist used by UT DEQ staff to verify that an application is administratively complete.
	<a href="http://www.airquality.utah.gov/Permits/Permitting_forms.htm#OperatingPermits">http://www.airquality.utah.gov/Permits/Permitting_forms.htm#OperatingPermits</a>	Links to 6 operating permit related documents including: OP application form, OP application instructions, OP application checklist, sample permit deviations report, sample monitoring report, sample compliance certification and OP renewal cross-referencing info.

## APPENDIX C

### Agency Procedural Timelines for Issuance of Title V Renewal Permits and Significant Permit Modifications<sup>1</sup>

#### Bay Area:

The Bay Area Air Quality Management District (BAAQMD) has established in its regulations an 18-month deadline for taking final action on permit renewals and SPMs from the date an application has been deemed complete.<sup>2</sup> For permit renewals, the agency sends out a reminder letter approximately 12-18 months in advance of the permits' expiration date (six to 12 months prior to the application deadline). Following receipt of either an application for a permit renewal or significant modification, BAAQMD has, under its rules, up to 60 days to make a completeness determination, although it may take agency staff as few as 30 day to conduct its review. If the application is incomplete, BAAQMD gives the facility up to 30 days to provide the needed information. Once the application is deemed complete, the permit engineer begins drafting the permit within 61 and 90 days. It takes between 181 and 365 days for the permit engineer to complete the final draft, 30 days of which is spent preparing an initial draft and circulating it within the agency and to the facility for preliminary review. Once a final draft permit has been completed, BAAQMD notices the start of the 30-day public comment period. At the conclusion of this period, the agency prepares a response to comments (if any comments were received), circulates it and the draft permit for internal legal review, and obtains signatures from top agency officials, a process that can take more than 30 additional days to complete. A request for a public hearing can add another 30 days or more to the time it takes to issue the permit, including time needed to schedule, notice, and hold the hearing plus prepare and issue a final response to comments document. BAAQMD submits the draft permit to EPA for its 45-day review concurrently with the start of its public comment period. If a sequential review process is initiated in response to significant public interest in the permit or a request by EPA, the agency can take 30 days or more to prepare a response to comments before sending the draft permit to EPA for its 45-day review.

#### Connecticut:

In its Performance Partnership Agreement with EPA Region I, the CT Department of Environmental Protection (CT DEP) has established a deadline for issuing permit renewals in a timely manner. CT DEP regulatory standards for issuing and renewing Title V permits provide that within 12 months of receiving an application to modify or renew a Title V permit, the CT DEP shall make a decision to grant or deny such an application. CT DEP requires facilities to submit renewal applications within 12 months prior to permit expiration; reminder letters are automatically sent to facilities 90 days before the date applications are due. Once an application for a permit renewal or significant modification is received, CT DEP enters the application

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<sup>1</sup> These procedures were prepared as a composite of data obtained from responses to the on-line questionnaire, follow-up interviews, and supplemental documents provided by the agencies.

<sup>2</sup> District Regulation 2-6-410.1.

information into its permit application management system and conducts an administrative completeness review. The permit application management system starts the permit issuance clock and tracks which facilities need to provide additional information. State rules provide for the agency to make a completeness determination within 60 days or send a notice to the applicant stating that the application fails to meet certain Title V permit application requirements. If the application is incomplete, the applicant has 45 days following notice by CT DEP to supply the agency with the requested information. Once applications are deemed complete, permit engineers begin drafting permit renewals within 91 to 180 days and SPMs within 61 to 90 days following the engineers' receipt and review of facility summary reports prepared by the agency's compliance analysis group. It takes another 181 to 365 days for the permit engineer to complete drafting the final draft permit. CT DEP then notices the draft permit commencing the 30-day public comment period. At the conclusion of this period the agency prepares a response to comments (if any comments were received), which takes 60 days or more for permit renewals and less than 15 days for SPMs. A request for a public hearing can add another 60 days or more to the time it takes to issue the permit, including time needed to schedule, notice, and hold the hearing plus prepare and finalize the response to comments document. CT DEP conducts its public comment period concurrently with EPA's 45-day review. If a sequential review process is initiated in response to an agency decision or a request by EPA, it can add another 45 days to the issuance timeframe. In the event comments submitted during the public comment period require CT DEP to revise the draft permit, the agency would renotice the draft, if the changes were significant, for 30 days concurrently with a second 45-day EPA review.

#### **Florida:**

The FL Department of Environmental Protection (FL DEP) does not routinely contact facilities to remind them of when their Title V permit will expire or the date when a renewal application will be due, although some of the agency's local program permitting offices do send out reminder letters. State law requires facilities to submit renewal applications within six months of the expiration date of their Title V permits and FL DEP to issue draft permit renewals within 90 days following receipt of a complete application.<sup>3</sup> After an application for a permit renewal or significant modification is received, it is logged into FL DEP's tracking system by an administrative staff person and then assigned by the supervisor to a permit writer, who begins the review process. The permit writer has 60 days conduct a comprehensive review of the application and determine whether it is complete.<sup>4</sup> If the application is deemed complete, the writer has 30 days to prepare the draft permit. If the application is deemed incomplete, the permit writer sends a letter to the facility requesting that the missing information be supplied within 90 days; however, the facility, without the need to show cause, may request a 60-day extension to respond to the state's request. The permit writer has 30 days upon receipt of the requested information to review it and make a completeness determination. If additional information is needed, the 90/+60-day request and 30-day review process repeats until the writer deems the application complete, at which time FL DEP has 60 days to issue the draft permit. Once FL DEP completes the draft permit, the facility has 7 days in which to publish a public notice in the newspaper, which commences the 30-day public comment period. At the

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<sup>3</sup> Chapter 403.0872(2)(a) and 403.0872(3), Florida Statute.

<sup>4</sup> FL DEP does not conduct a discrete administrative and technical review.

conclusion of the public comment period, FL DEP prepares a response to comments document and submits the proposed draft permit to EPA within 30 days for the start of EPA's 45-day review period. In the event a public hearing (referred to as a public meeting in FL) is requested, the public comment period could be extended for another 21 days in order to notice, schedule, and conduct the meeting.<sup>5</sup> If comments are received that require FL DEP to revise the draft permit, the public comment period is repeated for another 30 days prior to proposing the revised draft to EPA for its review. If EPA does not comment on the draft permit, the permit is finalized 10 days later, a total of 55 days after the start of the EPA review period. FL DEP has recently initiated a concurrent review process for some permits, in which the public comment period and EPA review are conducted simultaneously.

### **Kansas:**

The KS Department of Health and Environment (KDHE) sends out a reminder card to facilities six months before their renewal applications are due (six months prior to the permit expiration date). The agency has established a goal of issuing Title V permit renewals within six months (180 days) of the date applications are received, regardless of their level of completeness. When an application for a permit renewal or significant modification is received, the agency completes an administrative completeness review within one to two weeks, although it has up to 60 days in which to notify the facility that its application is incomplete. Following this review, the agency sends the facility a completeness letter and the application is assigned to a permit engineer who conducts a technical review and drafts the permit. If the application is incomplete, the facility is given 30 days to supply the agency with the requested information. Once the application is deemed complete, the permit engineer begins drafting the renewal permit within 91-180 days and the SPM within 61-90 days. It takes another 91-180 days for the engineer to complete the draft permit. Following completion of the final draft permit, KDHE will arrange to notice the draft permit in the newspaper, which takes up to 15 days. The 30-day public comment period will commence on the day the notice appears and is conducted concurrently with EPA's 45-day review. Following the conclusion of the public comment period, the agency prepares a response to comments (if any comments were received), which takes 10 to 15 days to complete. A request for a public hearing will add an additional 45 to 60 days to the process. In the event a sequential review process is initiated in response to an agency decision or a request by EPA, it can take an additional 45 days to complete the EPA review.

### **Maryland:**

The MD Department of the Environment (MDE) has established a performance measure for permit renewal issuance of 18 months from the date renewal applications are received. In addition, the Air Quality Permits Program has set its own internal goal of issuing renewal permits before they are due to expire and ideally within four months (120 working days) from the date the applications are received. The agency mails a reminder letter and application forms to facilities three months in advance of the application due date (six months prior to permit expiration). Once an application is received, the assigned permit engineer conducts an

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<sup>5</sup> A public meeting is a gathering conducted during the 30-day public comment period, at which the public can receive information about a permit and offer formal comments. A facility usually petitions for a public hearing only when it seeks judicial review as a step in the litigation process.

administrative completeness review, usually within 10 business days, at which time a completeness determination letter is mailed to the facility. Following the completeness determination, the engineer will attempt to conclude the technical review within 10 working days. However, if the engineer determines during the technical review that additional information is needed to draft the permit, the facility must supply the requested information within 30 days (or up to 60 days for CAM-related deficiencies). If the information received is insufficient, the engineer will contact the facility as many times as needed to obtain information that is acceptable, a process which can take between 91 and 180 days. The engineer first prepares a predraft permit, which is circulated within the agency for review by the supervisor, manager, and compliance staff. Following this internal review, the predraft permit is sent to the facility and EPA for comments. The preparation of the predraft, internal, and external review and completion of a final draft permit can take an additional 181 days to a year. Once the final draft permit has been completed, MDE requires the facility to publish notice, which can take up to 15 days. The 30-day public comment period will commence on the day the notice appears and is conducted concurrently with EPA's 45-day review. Following the conclusion of the public comment period, the agency prepares a response to comments (if any comments were received), which can take 60 or more days to complete. If a request for a public hearing is made during the public comment period, it can add an additional 60 to 90 days to the time it takes to issue the permit. In the event a sequential review process is initiated in response to significant public interest in the permit, the receipt of a significant public comment, or a request by EPA, it can take an additional 45 days to complete the EPA review.

### **Minnesota:**

The MN Pollution Control Agency (MPCA) sends facilities a reminder letter and reissuance packet containing application forms, instructions and a permit summary three months before their renewal applications are due (six months prior to the permit expiration date). Once an application for a permit renewal or significant modification is received, a clerical staff person logs it into the agency's database and performs a cursory review of the application forms, signatures, and certification.<sup>6</sup> The agency has up to 60 days after the application is received to make a completeness determination. State regulations require MPCA to issue permit actions within 18 months of receiving a complete application.<sup>7</sup> Once the application is deemed complete by default after the cursory review, the application remains in the queue until a permit engineer becomes available to begin the technical review. For renewals it can take the engineer more than 180 days to begin drafting the permit. For SPMs, the engineer can often begin drafting the permit in less than 30 days. If the application lacks information needed to draft the permit, the facility is given 30 days to supply the requested information for a permit renewal and 15 days for a SPM. If the information received is insufficient, the engineer will contact the facility as many times as needed to obtain information that is acceptable. It takes an additional 181 to 365 days

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<sup>6</sup> MPCA does not review application content or quality during its administrative completeness review. The permit engineer addresses these issues during the subsequent technical review.

<sup>7</sup> Minnesota Rules Chapter 7007.0750 Subpart 2(C) pertains to Title V permits, permit renewals and major permit amendments that do not constitute a "major permit amendment to construct a modification." SPMs that do must be issued within 14 months of the receipt of a complete application in accordance with Minnesota Rules Chapter 7007.0750 Subpart 2(A) unless meetings or hearings take place or substantial comments are received.

for the engineer to draft a renewal permit and an additional 91 to 180 days to draft an SPM. Following completion of the final draft permit, MPCA will publish a public notice and commence the 30-day public comment period, which runs concurrently with EPA's 45-day review. If no comments are received during this period, the agency can issue the permit within seven days following EPA's review. When comments are received, the agency prepares a response to comments, which can take between 31 and 45 days to complete. In the event a public hearing is requested, MPCA issues a 30-day notice prior to the hearing and extends the public comment period for another 30 to 40 days afterward.<sup>8</sup> In the event a sequential review process is initiated in response to significant public interest in the permit, the receipt of a significant adverse comment, or a request by EPA, it can take an additional 45 days to complete the EPA review.

If MPCA revises the draft permit in response to a significant adverse comment, the agency would automatically conduct a sequential EPA review, adding another 45 days to the time it takes to issue the final permit.

### **New Jersey:**

The NJ Department of Environmental Protection (NJDEP) sends reminder letters to facilities six months before their renewal applications are due (six months prior to the permit expiration date). After an application for a permit renewal or significant modification has been received, NJDEP uses an application checklist to determine completeness. Depending on the quality of the application, this administrative completeness review can take hours, or it can take months, particularly for SPMs.<sup>9</sup> Items that are needed for the drafting process but not required for the completeness determination are examined in the drafting phase. If information is missing from the application, NJDEP gives the facility 30 days to supply the requested information. Once the application is deemed complete, drafting usually begins 61-90 days later for renewals, and within 31-60 days for SPMs. It takes the permit writer an additional 91-180 days to produce a draft of the permit. Upon completion of the draft, NJDEP publishes a public notice, commencing the 30-day public comment period. Following the conclusion of the public comment period, the agency takes between 16 and 30 days to respond to comments for renewals, and typically less than 15 days to respond to comments for SPMs. In the rare event a public hearing is required, it can add more than 60 days to the time required to issue the permit. NJDEP sends the draft permit to EPA for its 45-day review period after the conclusion of the public review period. EPA tends to wait the maximum 45 days to conduct its review to allow the start of the 60-day petition period. If in the rare event EPA objects to the permit within the first 45 days, it can be difficult to predict how long it will take for NJDEP to incorporate the necessary changes and issue the permit.

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<sup>8</sup> MPCA has a two-tier public hearing process. The first tier is a public information meeting, which requires a 30-day notice, but is conducted more as a public forum in which MPCA provides information and answers questions. Comments raised during this meeting do not become part of the public record although written comments submitted after the meeting do. The second tier is a hearing before the MPCA citizen board, which meets on a monthly schedule. Statements made at this hearing are included in the public record.

<sup>9</sup> Because SPMs in NJ include Title I requirements, the administrative completeness review can be delayed when Title I information is missing from the application.

## **Oregon:**

For renewals, the OR Department of Environmental Quality (OR DEQ) sends reminder letters to facilities between 18 and 24 months prior to their permits' expiration date to remind facilities of the need to submit their renewal applications 12 months before their permits expire.<sup>10</sup> Following receipt of an application for a permit renewal or SPM, the permit writer has 60 days to conduct a completeness review. If a renewal application is incomplete, the agency requires the facility to supply the requested information within 30 days. OR DEQ does not typically impose a deadline for SPMs. Once an application is deemed complete, the writer begins drafting renewals within 61-90 days and SPMs within 30 days. It takes 180 to 240 days for the writer to draft a renewal permit, and 91-180 days to draft an SPM. The agency then notices the draft and provides a 35-day public comment period. If a public hearing is requested, it will typically add between 46 and 60 days to the time it takes to issue the permit. The agency will extend the public comment period until a few days following the public hearing. Once the public comment period ends, the agency will take from 16 to 30 days to prepare a response to comments received during this period and the public hearing, if held. Under a memorandum of agreement between OR DEQ and EPA, EPA will conduct a review of the draft permit during the 35-day public comment period in addition to its 45-day review. OR DEQ will send the proposed permit to EPA following the comment period (and hearing, if one was held), but exactly how many days after depends on how many comments were received. The agency's agreement with EPA allows OR DEQ to request a 5-day expedited review if no controversial comments were received.

## **Texas:**

The TX Commission on Environmental Quality (TCEQ) has established an internal deadline of 330 days from receipt of applications to formally issue Title V permits, including renewals and SPMs. The agency first calls then sends facilities a permit renewal reminder letter 12 months before their permits expire (i.e., six months before the date the application is due). After an application for a permit renewal or SPM is received, the agency enters permit data into its data tracking system. A permit writer, who conducts the technical review and drafts the permit, is then assigned by a team leader based on current work loads.<sup>11</sup> Applications are automatically deemed complete within 60 days; however, if during the technical review, the application is found to be incomplete, TCEQ gives the facility 30 days to supply the requested information. The writer begins drafting the permit within 30 days after all the information needed has been received. The draft permit is sent to the applicant for a 30-day review period. Once the permit writer completes the draft permit (approximately 90-180 days after receipt of an application), the facility publishes a notice in the newspaper, commencing the 30-day public comment period. Permitting staff have up to 30 days to prepare a response to comments after which the agency's legal staff initiates their 30-day review. If a public hearing is requested during the public comment period, the process of noticing, scheduling, and holding the hearing

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<sup>10</sup> The permit writing staff makes no attempt to complete renewals prior to the expiration date for the current permit.

<sup>11</sup> TCEQ does not perform a discrete administrative completeness review, just a technical review in which the writer reviews everything in the application and checks for deficiencies and missing data.

can add 60 days or more to the time it takes to issue the permit. The time required to prepare a response to public comments, and respond to a public hearing request is not counted toward the agency's 330-day issuance deadline. TCEQ conducts its public comment period concurrently with EPA's 45-day review unless comments on the draft permit are received. The agency's switch to a sequential review, prompted by the receipt of any public comments or a request by EPA, adds 45 more days to the time it takes to issue the permit.

#### **Utah:**

The UT Department of Environmental Quality (UT DEQ) calls facilities to remind them about submitting their renewal applications six months before the applications are due (six months prior to their permit expiration date), however, it does not send a reminder notice. If an application has not been received 30 days before the permit's expiration date, UT DEQ will call the facility to inquire about the application. Once an application for a permit renewal or significant modification is received, the permit writer will conduct an administrative completeness review of the required application elements specified on the agency's database management system checklist. This review takes up to seven days to complete. If all the necessary application components have been included in the application, the system will generate a letter of completeness. If the application is incomplete, the permit writer will contact the facility to request the needed information. UT DEQ does not have a formal deadline for additional information; however, it usually takes between 31 and 60 days to receive the information requested for renewal applications and 15-30 days for SPMs. After the application has been deemed complete, it takes the writer 31-60 days to begin drafting a permit renewal and less than 30 days to begin drafting an SPM. It takes an additional 12 to 18 months for the writer to draft a renewal and less than 90 days to draft an SPM. Once the writer completes the draft permit, the agency publishes a notice in the newspaper, commencing the 30-day public comment period. Preparing a response to comments typically takes as little as 15 days and but not more than 30 days. If a public hearing is requested, it adds 15 days or less to the time it takes to issue the permit. UT DEQ has a formal agreement with EPA Region VIII to conduct early reviews. Officially, the EPA review is sequential; however, EPA typically completes its review within two or three weeks following receipt of the draft permit. EPA's comments are sent back to UT DEQ before the 30-day public comment period has expired.<sup>12</sup>

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<sup>12</sup> This process was started as a courtesy to sources that had requested an early review of their draft.

## APPENDIX D

### Calculation of Average Agency Issuance Time for Renewal Permits and Significant Permit Modifications

We generated the annual rates of late permit issuance and average issuance times in the Appendix E tables from supplemental data provided by nine agencies: CT DEP, FL DEP, KDHE, MDE, MPCA, NJDEP, OR DEQ, TCEQ, and UT DEQ.<sup>1</sup> Agencies provided data upon request in electronic format and hard copy. The data we received varied in format and comprehensiveness, which constrained our ability to analyze and compare performance across agencies. For example, agencies such as TCEQ and KDHE provided issuance data for approximately 200 permits. OR DEQ and CT DEP, by comparison, provided data on 10 and 20 permits, respectively. Only five agencies provided data significant permit modifications (SPMs) in addition to permit renewals. CT DEP, MDE, MPCA, NJDEP, and UT DEQ also provided data on current and overdue pending permit applications.

The annual timeframes include the ranges of dates each year for which each agency reported having received applications for permit renewals and SPMs. Agencies collectively reported data for permit applications received between 5/2/2001 and 7/30/2006. From the annual data on individual applications for permit renewals and SPMs, we calculated the total number of permits issued, the total number of overdue permits, and the total number of permits issued 18 months after application receipt. The last two columns in each table present the calculated percentage of permits issued after 18 months and the average time to issue permits for each agency.

We calculated the issuance time for permit renewals and SPMs as the total number of days from the date an application was received to the date it was issued. We defined a “late” permit as any permit issued after 18 months, i.e., 540 days, from the application receipt date; we defined an “overdue” permit as a permit that had yet to be issued within 540 days from the application receipt date. Taken together, the late and overdue permits constitute the universe of permits that are issued after the 18-month timeframe. We calculated the percentage of renewals permits and SPMs issued late using the following equation:

$$\% = \frac{\# \text{ of } \textit{permits issued late} + \# \text{ of } \textit{overdue permits}}{\# \text{ of } \textit{total permits issued} + \# \text{ of } \textit{overdue permits}}$$

We calculated each agency’s average time to issue permit renewals and SPMs for issued permits only. We did not include overdue or currently pending permits in the average time calculation since we could not predict the dates on which they would be issued.

In order to calculate annual weighted average percentages and issuance timeframes across agencies, we first assigned each agency a weight calculated by dividing its total number of

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<sup>1</sup> We received data from BAAQMD but were unable to sufficiently interpret the data for use in our calculations.

permits issued and overdue permits in a given year by the total number of issued and overdue permits for all agencies combined for that year. We then multiplied the weight assigned to each agency by its average issuance time. We added these calculations together to obtain the overall weighted average across all the agencies.

## APPENDIX E

### Year-by-Year Analysis of the Actual Average Agency Issuance Time Calculated for Renewal Permits and Significant Permit Modifications

#### Connecticut

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2003	3	1	33.3%	530
2004	12	7	58.3%	374
2005	5	0	0.0%	360

#### Florida

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2002	2	2	100.0%	1078
2003	7	7	100.0%	830
2004	21	8	38.1%	472
2005	23	0	0.0%	273
2006	1	0	0.0%	153
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2004	7	2	28.6%	459
2005	33	0	0.0%	202
2006	2	0	0.0%	132

<sup>1</sup> The count of permits issued and overdue permits includes the total number of permits issued on time, the total number of permits issued late, and the number of permits overdue for issuance, i.e., had not yet been issued within 18 months (540 days) of application receipt. See Appendix D for a detailed description of the method used to generate permit counts.

<sup>2</sup> The count of permits issued late also includes overdue permits.

<sup>3</sup> We calculated the average days to issuance using only the issuance timeframes for issued permits.

**Kansas**

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2001	63	16	25.4%	456
2002	45	28	62.2%	547
2003	19	8	42.1%	514
2004	31	2	6.5%	255
2005	31	1	3.2%	248
2006	1	0	0.0%	138
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2001	2	1	50.0%	504
2002	N/A	N/A	N/A	N/A
2003	2	0	0.0%	444
2004	6	0	0.0%	84
2005	1	0	0.0%	243
2006	N/A	N/A	N/A	N/A

**Maryland**

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2003	15	2	13.3%	304
2004	35	6	17.1%	336
2005	14	0	0.0%	269
2006	1	0	0.0%	186

### Minnesota

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2001	8	8	100.0%	1617
2002	22	22	100.0%	1337
2003	21	20	95.2%	802
2004	33	25	75.8%	498
2005	15	7	46.7%	312

### New Jersey

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2003	12	6	50.0%	591
2004	12	5	41.7%	397
2005	23	4	17.4%	330
2006	5	0	0.0%	149
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2002	1	0	0.0%	254
2003	46	3	6.5%	222
2004	29	10	34.5%	346
2005	46	0	0.0%	166
2006	7	0	0.0%	84

### Oregon

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2003	1	1	100.0%	1035
2004	1	1	100.0%	942
2005	4	0	0.0%	375
2006	4	0	0.0%	60
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2004	1	1	100.0%	949

### Texas

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2002	3	3	100.0%	956
2003	20	20	100.0%	799
2004	50	11	22.0%	435
2005	92	0	0.0%	217
2006	3	0	0.0%	133
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2003	2	2	100.0%	702
2004	8	0	0.0%	334
2005	20	0	0.0%	219
2006	2	0	0.0%	115

### Utah

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>
2001	8	1	12.5%	477
2002	14	5	35.7%	383
2003	5	2	40.0%	494
2004	13	7	53.8%	337
2005	2	1	50.0%	174

### Yearly Averages Combined Across Agencies

<b>Renewals</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late</b>	<b>Average Days to Issuance<sup>3</sup></b>	<b>Percent Reduction in Average Days to Issuance 2001-2005</b>
2001	79	25	31.6%	576	
2002	86	60	69.8%	749	
2003	103	67	65.0%	632	
2004	208	72	34.6%	396	
2005	209	13	6.2%	257	
2006	15	0	0.0%	124	
<b>Total/ Wtd. Ave.</b>	<b>700</b>	<b>237</b>	<b>33.9%</b>	<b>447</b>	
<b>SPMs</b>	<b>Count of Permits Issued and Overdue Permits<sup>1</sup></b>	<b>Count of Permits Issued Late<sup>2</sup></b>	<b>Pct. Issued Late<sup>3</sup></b>	<b>Average Days to Issuance</b>	<b>Percent Reduction in Average Days to Issuance 2001-2005</b>
2001	2	1	50.0%	504	
2002	1	0	0.0%	254	
2003	50	5	10.0%	250	
2004	51	13	25.5%	600	
2005	100	0	0.0%	342	
2006	11	0	0.0%	243	
<b>Total/ Wtd. Ave</b>	<b>215</b>	<b>19</b>	<b>8.8%</b>	<b>378</b>	

## APPENDIX F

### Description of Strategies Employed by Agencies to Address Factors that Most Contribute to Delay

			<b>FL</b>
Increase CAM resources and make CAM-related application processes easier for facilities.			Agency's CAM expert has conducted professional presentations for facilities.
Standardize and/or streamline application forms and process.	Changed the application form to be clearer to prevent applicants from checking the wrong box on the certification form.		
Eliminate discrete administrative completeness review.			
			<b>FL</b>
Increase efficiency of agency resources (e.g. prioritizing permit writers' workload, or agency reorganization).			Managers and permit writers can pull reports to help prioritize their workloads.
Hire additional permitting staff and/or increase other agency resources.			
Provide training opportunities for permitting staff.			Agency's CAM expert has conducted CAM training for permit writers.
Use standardized conditions or language in permits.			Developed standardized conditions for use by the regional offices, e.g. NESHAP.
Increase outreach to facilities.	Calling facilities helps the agency receive additional information more quickly.		Gives compliance assistance and provides Title V and NESHAP workshops for facilities.
Invoke enforcement actions to prompt facilities to respond to deficiencies.			
			<b>FL</b>
Increase outreach to stakeholders in advance of public notice.			
Standardize responses to comments.			
			<b>FL</b>
Specify circumstances when sequential review is required.			
Agency receives advance notice of EPA's intention to review a permit.			
Hold regular conference calls with EPA to discuss permitting issues.			

**Note:**

Blank cells indicate that the agency did not report a strategy in response to factors contributing most to delay.

		<b>MD</b>
Increase CAM resources and make CAM-related application processes easier for facilities.	Developed a new application package to help facilities identify the need for a CAM plan.	Arranged workshops for facilities on CAM.
Standardize and/or streamline application forms and process.	New application package helps streamline the process.	
Eliminate discrete administrative completeness review.		
		<b>MD</b>
Increase efficiency of agency resources (e.g. prioritizing permit writers' workload, or agency reorganization).	Management wants the writers to have a predictable and consistent workload and will work to achieve it.	Technical support group provides administrative support for engineers.
Hire additional permitting staff and/or increase other agency resources.	Agency is being more aggressive in recruitment and has hired a full-time recruiter.	Hired additional staff.
Provide training opportunities for permitting staff.	Offered training to staff through CenSARA.	Permit staff take advantage of MARAMA training.
Use standardized conditions or language in permits.		
Increase outreach to facilities.		Engineers are able to work with the compliance program during site investigations. Use phone calls and site visits to increase communication with facilities.
Invoke enforcement actions to prompt facilities to respond to deficiencies.		
		<b>MD</b>
Increase outreach to stakeholders in advance of public notice.		Encourages facilities to attend public meetings to improve public relations.
Standardize responses to comments.		Developed a library of agency responses to frequently received comments.
		<b>MD</b>
Specify circumstances when sequential review is required.		
Agency receives advance notice of EPA's intention to review a permit.	EPA has an agreement with the agency to notify it within seven days if it will review a permit or not.	
Hold regular conference calls with EPA to discuss permitting issues.		

		<b>NJ</b>
Increase CAM resources and make CAM-related application processes easier for facilities.	Provided and arranged for CAM training for facilities.	Added questions to renewal package that pertain to CAM applicability.
Standardize and/or streamline application forms and process.	Sends facilities detailed forms and standard procedures with renewal reminder letters.	
Eliminate discrete administrative completeness review.		
		<b>NJ</b>
Increase efficiency of agency resources (e.g. prioritizing permit writers' workload, or agency reorganization).	Provides general training and mentoring to new staff; established standard procedures for management of projects and team communication.	In the process of reorganizing from two bureaus (preconstruction and operating) and adopting a facility management approach with one engineer per facility.
Hire additional permitting staff and/or increase other agency resources.	Uses Title V fees to hire unclassified employees; piloting the use of engineering student workers. Pursuing a legislative initiative to provide more resources for construction permits and free up permit writer time to work on Title V.	
Provide training opportunities for permitting staff.	Provides mentoring and training to new staff.	
Use standardized conditions or language in permits.	Developed templates to facilitate its technical review as well preparation of technical support documents, fact sheets, and public notices. Written procedures and guidance documents, which agency staff regularly maintain and update, have been established to assist permit writers with the drafting process.	
Increase outreach to facilities.	Conducts site visits, in-person meetings with facilities, and try to be persuasive. Promote responsiveness among facilities participating in the Six Sigma Project.	
Invoke enforcement actions to prompt facilities to respond to deficiencies.	Alerts the applicant about enforcement consequences and the possible loss of the permit shield.	Threatening to deny permit applications has been effective.
		<b>NJ</b>
Increase outreach to stakeholders in advance of public notice.	Implemented the Community Involvement Project that seeks to involve communities early in the air permitting process to become aware of public concerns before a draft permit is issued and engage stakeholders in a more constructive dialogue.	
Standardize responses to comments.		
		<b>NJ</b>
Specify circumstances when sequential review is required.	Circumstances are specified in Minnesota Rule 7007.0950.	
Agency receives advance notice of EPA's intention to review a permit.		
Hold regular conference calls with EPA to discuss permitting issues.	Communicates upcoming permitting issues with Region V during monthly calls; sends relevant information on facilities for which sequential review is anticipated.	

			<b>UT</b>
Increase CAM resources and make CAM-related application processes easier for facilities.		Decision Support System (DSS) helps facilities determine regulation applicability. Facilities can use the CAM guidance to select from pre-approved CAM options for different emissions units.	Waiting for EPA approval for facility and consultant CAM training. Refers facilities to the EPA's Emissions Measurement Center for sample CAM plans.
Standardize and/or streamline application forms and process.		DSS is a series of flowcharts that help streamline the application process.	Uses an electronic checklist to determine application completeness. Ask sources to include existing statement of business and parts of old permits.
Eliminate discrete administrative completeness review.		Administrative review is incorporated into the technical review.	
			<b>UT</b>
Increase efficiency of agency resources (e.g. prioritizing permit writers' workload, or agency reorganization).		Manager can reassign projects to balance the workload among permit writers.	Have a database that helps to analyze and track the time to draft a permit. Writers are asked to fill out time sheets and progress reports.
Hire additional permitting staff and/or increase other agency resources.			
Provide training opportunities for permitting staff.			
Use standardized conditions or language in permits.		Standardized terms and conditions and the DSS help permit writers make applicability determinations and have helped timeliness.	
Increase outreach to facilities.		Puts on trade fair and seminars for facilities, consultants, and other interested parties.	
Invoke enforcement actions to prompt facilities to respond to deficiencies.			
			<b>UT</b>
Increase outreach to stakeholders in advance of public notice.			Educated the environmental community that Title V is not the time to object to emissions limits or BACT.
Standardize responses to comments.		Prepared a response to comments library to streamline responses to similar questions/comments.	
			<b>UT</b>
Specify circumstances when sequential review is required.			
Agency receives advance notice of EPA's intention to review a permit.			
Hold regular conference calls with EPA to discuss permitting issues.			