



At a Glance

Why We Did This Project

We conducted this audit to determine the U.S. Environmental Protection Agency's progress in implementing a Clean Air Act preconstruction permitting program, called New Source Review, for new sources of emissions and modifications to existing sources of emissions in Indian Country.

In 2011, the EPA issued regulations for developing permits that contain emission limitations for new and modified facilities in Indian Country, referred to as the tribal NSR rule. These regulations provide authority for the EPA to issue permits for smaller sources of emissions, called minor sources, in Indian Country where tribes do not conduct such permitting themselves. The tribal NSR rule set regulatory time frames that range from 90 to 365 days for processing minor-source permits, depending on the permit type. We assessed whether the EPA had met these time frames for permit applications received from 2011 to August–October 2018.

This report addresses the following:

- *Improving air quality.*

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EPA's Processing Times for New Source Air Permits in Indian Country Have Improved, but Many Still Exceed Regulatory Time Frames

What We Found

Of the tribal minor-source-NSR permits that the EPA issued between 2011 and August to October 2018, 62 percent exceeded the applicable regulatory time frame. In addition, more than half of the permits still in process exceeded the applicable time frame. However, since 2011, the average number of days it has taken the EPA to issue two types of minor-source permits has declined. Further, the EPA processed permits for the construction of new facilities faster than it processed permits for existing facilities. Processing permits for new facility construction is more critical since delays could have negative economic impacts on industry and tribal communities.

Delays in processing tribal-NSR permits could impact construction projects and increase the risk that existing facilities awaiting a permit could be emitting more pollution than would be allowed if they were operating under an approved permit.

The main causes of permitting delays included time-consuming back-and-forth communication between the applicant and the EPA during the application process, as well as competing and limited resources. In April 2018, staff and managers from EPA headquarters and regions met to identify ways to make the NSR permitting process more efficient, but they have not implemented all the recommendations from that meeting. The EPA began tracking processing times in the summer of 2018.

In addition, not all EPA regions were accurately documenting the date that applications were deemed complete, which is the basis for computing processing time frames. Without accurate application completion dates, the Agency cannot accurately assess the timeliness of permitting actions. We also found that the EPA does not have a systematic approach to identify non-filers, which are facilities on tribal lands that need an NSR permit but have not applied for one.

Recommendations and Planned Agency Corrective Actions

We recommend that the EPA (1) establish a permit tracking system that is accessible to both applicants and the EPA, (2) develop guidance for the EPA regions on how to properly determine the date an application is considered to be complete for tracking purposes, (3) develop a strategy to periodically coordinate with tribes to identify potential non-filers, and (4) develop a strategy to conduct outreach to industry to educate facilities on their permitting responsibilities. The Agency agreed with our recommendations and provided acceptable corrective actions and completion dates.