

INFORMATION COLLECTION REQUEST
FOR CHANGES TO
THE PART 70 OPERATING PERMIT REGULATIONS,
THE PART 71 OPERATING PERMIT REGULATIONS,
AND
THE PARTS 51 and 52 PREVENTION OF SIGNIFICANT DETERIORATION AND
NONATTAINMENT NEW SOURCE REVIEW REGULATIONS
FOR FLEXIBLE AIR PERMITS

Information Collection Request Numbers:
Part 70 – EPA No. 1587.10; OMB No. 2060-0243
Part 71 – EPA No. 1713.09; OMB No. 2060-0336
Parts 51 and 52 – EPA No. 1230.26; OMB No. 2060-0003

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1 Identification of the Information Collection

1.1 Title The title of this Information Collection Request (ICR) is “Information Collection Request for Changes to the Part 70 Operating Permit Regulations, the Part 71 Operating Permit Regulations, and the Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review Regulations for Flexible Air Permits.” This document fulfills the Agency's requirements under the Paperwork Reduction Act (PRA) to determine the regulatory burden associated with the promulgation of new regulations intended to clarify and provide more certainty about how sources and permitting authorities can use flexible air permitting approaches under the title I New Source Review Program and the title V Operating Permit Program to authorize additions of new capacity and different operations of existing equipment. It has been assigned EPA tracking numbers 1587.10, 1713.09, and 1230.26 because it affects three existing, approved collections. Specifically, this ICR modifies the following three approved collections: ICR No. 1587.07 (OMB Control No. 2060-0243) titled “State Operating Permit Regulations (40 CFR part 70);” ICR No. 1713.06 (OMB Control No. 2060-0336) titled “Federal Operating Permit Regulations (40 CFR part 71);” and ICR No. 1230.23 (OMB Control No. 2060-0003) titled “Prevention of Significant Deterioration and Nonattainment New Source Review (40 CFR Parts 51 and 52).” The present ICR calculates the *incremental burden and cost of flexible permits* as they relate to the baseline burden and cost estimated across these three ICRs.

1.2 Description Historically, title V of the Clean Air Act requires states to develop and implement a program for issuing operating permits to all sources that fall under the Act’s definition of major and certain other non-major sources that are subject to federal air quality regulations. The Act further requires EPA to develop regulations that establish the minimum requirements for those state operating permit programs and to oversee their implementation. The EPA regulations setting forth requirements for the state operating permit programs were codified at 40 CFR part 70 on July 21, 1992. In addition, the Act requires EPA to administer an operating permit program in any state that fails to develop and operate an acceptable program, as well as those areas outside the jurisdiction of any state. The federal operating permit program was codified at 40 CFR part 71 on July 1, 1996.

The major New Source Review (NSR) Program regulates emissions increases due to new major sources and modifications at existing major sources in an effort to achieve and maintain the National Ambient Air Quality Standards (NAAQS). Amendments enacted in 1990 to title I of the Clean Air Act included changes to state and federal programs for preconstruction review and permitting of major new and modified sources pursuant to part C “Prevention of Significant Deterioration” (PSD) and part D “Program Requirements for Nonattainment

Areas” (NA NSR). The EPA regulations setting forth requirements for the PSD and NA NSR programs are codified at 40 CFR parts 51 and 52. In December 2002, EPA finalized the NSR Improvement Rule with regulations for plantwide applicability limits (PALs), 67 FR 80186. The Act also requires states to implement a minor NSR program to address emissions from new sources and modifications that are too small to be subject to major NSR (i.e., PSD and NA NSR). The EPA regulations for these programs are codified in 40 CFR part 51.

In response to our experience in and evaluation of flexible permitting techniques used in the last decade on a pilot permit basis, and comments, discussions and recommendations from the public and stakeholders, the EPA is revising regulations in the operating permits program to facilitate use of these flexible permitting techniques. This rulemaking makes several changes to the operating permits program by:

- Adding a definition and clarifying the scope of alternative operating scenarios (AOSs), which were already included in the part 70/71 regulations but generally have been interpreted and implemented narrowly;
- Adding a definition for “approved replicable methodology” (ARM) in the part 70/71 regulations to clarify the acceptability of operating permit terms that allow a source to carry out calculations for compliance and applicability purposes in a prescribed manner without the need for a permit revisions.

The preamble to this rulemaking also discusses advance approval of physical and operational changes under state minor NSR programs. In addition, the preamble discusses the ability of permitting authority to authorize changes in an NSR project through the flexibilities available under the existing major NSR regulations. We are not proposing any revisions to the regulations governing such programs.

The following activities, which will occur during the period of this ICR, include those activities that EPA estimates represent incremental increases and decreases in burden associated with flexible permitting.

Parts 70 and 71

- Flexible permitting sources applying for permit renewal
- Permitting authorities and EPA renewing permits
- Newly subject flexible permitting sources submitting permit applications
- Permitting authorities and EPA reviewing applications for new permits
- Flexible permitting sources working with permitting authorities and EPA to prepare draft permits
- EPA reviewing new or renewal permits issued by permitting authorities

- Permitting authorities and EPA collaborating to support sources in the development of their permits
- Flexible permitting sources not needing to submit applications for permit revisions
- Permitting authorities and EPA not needing to process permit revisions

Parts 51 and 52

- Flexible permitting sources applying for PSD or NA NSR permits
- Permitting authorities and EPA reviewing flexible permitting sources' applications for PSD and NA NSR permits
- Flexible permitting sources applying for minor NSR permits including advance approvals and/or plantwide applicability limitations (PALs)
- Permitting authorities reviewing flexible permitting sources' applications for minor NSR permits including advance approvals and/or PALs
- Flexible permitting sources not needing to apply for minor NSR permits
- Permitting authorities not needing to process minor NSR permits
- Flexible permitting sources avoiding subsequent PSD and NA NSR permits during the permit term
- Permitting authorities and EPA avoiding processing subsequent PSD and NA NSR permits during the permit term

All of these data are made available for public review and comment. The activities to carry out these tasks are considered mandatory and necessary for implementation of titles I and V and the proper operation of the NSR and operating permits programs. The information will also be available for public inspection at any time in the offices of the permitting authorities.

The Agency anticipates total direct cost savings to subject sources attributable to the changes to the part 70 permit program for flexible air permits for the 3 years of the ICR to be approximately \$7.3 million. This represents the direct administrative cost savings for an estimated 2,516 sources of approximately \$2,900 per source or 77 hours per source during the period of this ICR. The Agency estimates the cost savings of the changes to the part 70 permit program for flexible air permits for the 3 years of the ICR to permitting authorities to be approximately \$7 million, or \$2,800 in cost savings due to 62 fewer burden hours per source (or \$62,400 cost savings attributable to 1,387 hours saved per permitting authority). The Agency estimates costs to the Federal Government due to the changes to the part 70 permit program for the 3 years of the ICR of approximately \$615,600, or \$245 attributable to approximately 5 hours more worked per source.

The Agency anticipates total direct cost savings to subject sources attributable to the changes to the part 71 permit program for flexible air permits for the 3 years

of the ICR to be approximately \$51,200. These represent the direct administrative cost savings for an estimated 18 sources, or approximately \$2,800 per source during the period of this ICR or 76 hours saved per source. Under the part 71 program, EPA is the only permitting authority. In this function, the Agency estimates the federal cost savings of the changes to the part 71 permit program for flexible air permits for the 3 years of the ICR to be approximately \$49,300, or \$2,700 in cost savings due to 61 fewer burden hours per source (or \$49,300 cost savings attributable to 1,095 hours saved by the single federal permitting authority).

The Agency anticipates total direct cost savings to subject sources attributable to the changes to the parts 51 and 52 PSD/NSR program for flexible air permits for the 3 years of the ICR to be approximately \$54.4 million. These represent the direct administrative costs for the estimated 840 sources, or approximately \$64,700 in cost savings per source during the period of this ICR, or 663 fewer burden hours per source. The Agency estimates the cost savings of the changes to the parts 51 and 52 PSD/NSR program for flexible air permits for the 3 years of the ICR to permitting authorities to be approximately \$33.7 million, or \$40,100 in cost savings attributable to 520 fewer burden hours per source (or \$301,100 attributable to 3,899 fewer hours worked per permitting authority). The Agency estimates federal costs for changes to the parts 50 and 51 PSD/NSR program for the 3 years of the ICR will be approximately \$93,300 to review minor and major NSR permits during the term of this ICR, or \$111 in costs attributable to about 3 more burden hours per source (or \$93,300 attributable to 2,161 more hours worked by the Agency, which is the lone federal entity).

2 Need and Use of the Collection

2.1 **Need/Authority** In implementing title V of the Act and EPA's part 70 operating permits regulations, state and local permitting authorities must develop programs and submit them to EPA for approval (section 502(d)). Sources subject to the program must prepare operating permit applications and submit them to the permitting authority within one year after approval of the program by EPA (section 503). Permitting authorities will then issue permits (section 503(c)) and thereafter enforce, revise, and renew those permits at least every 5 years (section 502(b)(5)). Permit applications and proposed permits will be provided to, and are subject to review by, EPA (section 505(a)). The permit and all information submitted by a source shall be available for public review except for confidential information, which will be protected from disclosure (section 503(e)), and the public shall be given public notice of, and an opportunity for comment on, permit actions (section 502(b)(6)). Sources will submit monitoring reports semi-annually and compliance certification reports annually to the permitting authorities (section 503(b)(2)). The EPA has the responsibility to oversee implementation of the program (section 502(c)). Sources seeking flexible air permits are subject to the same requirements. This ICR will address only the incremental burden and cost associated with flexible permits.

**for the
Collection**

Section 110 of the CAA requires all states to submit an implementation plan which contains a preconstruction review program for all new or modified stationary sources, including any provisions necessary for this program to meet the specific requirements of parts C and D of title I of the CAA related to construction of major sources and modifications. Part C, also known as the PSD rules, outlines specific construction requirements for new and modified sources constructing in attainment areas; and part D, also known as NA NSR rules, provides requirements for sources constructing in nonattainment areas. The PSD rules require a demonstration of best available technology (BACT) and that the NAAQS and increments will not be exceeded, and the protection of federal Class I areas from adverse impacts. The NSR rules require a demonstration of lowest achievable emission rate (LAER), a certification that all major sources owned by the same entity are in compliance, and compliance with specific statutory offset ratios. The requirements of the CAA for minor NSR programs require much less prescriptive, requiring only that states assure that new minor sources and minor modifications do not cause or contribute to violation of the NAAQS. This ICR will address the incremental burden and cost associated with flexible permit sources that seek a minor NSR, NA NSR, or PSD permit and also avoid future minor NSR, NA NSR, and PSD permit processing.

2.2

Utility/Users of the Data

Practical The burden estimates included in this ICR include the total incremental burden of implementing the parts 70 and 71 operating permits programs and parts 51/52 NSR program for flexible air permits. For the 3-year period covered by this ICR, all state part 70 operating permit programs (including those portions of states for which an operating permits program is being implemented by a local agency) have been submitted to EPA and have been granted full approval. The EPA part 71 program covers Indian country sources, sources on the Outer Continental Shelf, and Deep Water Port sources. All state and local agencies have approved minor NSR and NA NSR programs, but several states have not developed PSD programs; these states have been delegated authority to implement the federal PSD program of part 52 (referred to as “delegated states”). The EPA implements the part 52 PSD program in Indian country.

In the final rulemaking we are making no changes to the NA NSR or PSD rules. We believe that no state and local agencies will need to revise their title I NA NSR or PSD programs to begin issuing permits for major NSR projects as discussed in the final preamble, to the extent that they wish to do so. Based on our experience with flexible permit pilots, we anticipate that all permitting authorities will be able to issue flexible part 70 permits under their existing title V operating permits program without revision. (None of the permitting authorities taking part in the pilot permitting projects were precluded from issuing flexible permits by their part 70 programs.)

For major sources to be constructed or modified in attainment or nonattainment areas, the owner or operator of a facility must submit a PSD or NA NSR application to the permitting authority. Once the application is complete, the permitting authority makes a preliminary determination regarding the approvability of the permit application and makes this determination, along with the application and supporting information, available to the public for at least 30 days. The public then has an opportunity to comment on the provisions of the flexible permit, after which the permitting authority will respond to public comments and take action on the final permit.

2.3

Considerations

Caveats and The information included in this ICR is based upon the best data sources available to the Agency at this time. However, incomplete information regarding how many sources may seek, and be eligible for, flexible permits, and sampling limitations imposed upon the Agency by the Paperwork Reduction Act necessitated a certain amount of extrapolation and “best-guess” estimations by Agency experts. Consequently, the

reader should not consider the conclusions to be an exact representation of the level of burden or cost that will occur during the 3 years of this ICR. Instead, this ICR should be considered a directionally correct assessment of the impact the flexible air permitting approach of the operating permit program will have over the next 3 years.

Throughout this ICR, the reader will observe estimated values that show accuracy to the single hour or dollar. Because this ICR estimates the expected impact of the flexible air permitting approaches on the operating permit and NSR programs, reporting values at the single unit value may be misleading. In most situations, the proper way to present estimated data would be to determine an appropriate level of precision and truncate values accordingly, usually in terms of thousands or millions of units. To avoid the loss of information through rounding, however, this ICR reports all values at the single unit level and reminds the reader that there is no implied precision inherent in this style of reporting of the impact the flexible air permitting approach of the operating permit and NSR programs will have over the next 3 years.

Finally, readers should note that many of the increases in burden under the rulemaking will occur in the first 3 years of implementation, which are covered by this ICR, while many of the decreases in burden will continue beyond the period covered by this ICR. Consequently, this ICR does not present the full net burden reduction that is expected to be achieved by this rulemaking.

3 Non-Duplication, Consultation, and Other Collection Criteria

3.1 Non-Duplication While much of the information requested under this ICR existed prior to the creation of the operating permits program, an operating permit for a source with a flexible air permit is a compilation of existing requirements; the purpose being to bring all requirements applicable to a source into one document. The intent of this compilation is to (1) resolve any questions of applicability at the time of permit issuance, (2) provide certainty to sources as to their obligations, and (3) provide the public access to a source's obligations and compliance status. The Agency has no leeway to not require such previously existing information under this ICR since consolidation of the information into the operating permit and providing public access is the whole purpose of the statute.

The information collection activities required under the NSR regulations are not routinely performed elsewhere by EPA. However, similar information may be collected during the development of certain environmental impact statements (EIS). In such cases, regulations and policies require that information collected for EISs and NSR programs be coordinated to the maximum extent possible so as to minimize duplicating the collection of data. Some of the required information also may already be available from states or other federal agencies. However, even when these data are available, they are not generally adequate to address completely the relevant NSR requirements.

3.2 Public Notice The proposal notice for this rulemaking was published in the *Federal Register* on September 12, 2007 (72 FR 52206). A 30-day public comment period was provided for this ICR, during which all affected parties were given the opportunity to comment on the burden analysis. No comments on the ICR were received.

Requirements

3.3 Consultations In preparing this ICR, EPA relied on information gathered for developing ICR No. 1587.07 titled "Information Collection Request for State Operating Permit Regulations (40 CFR Part 70);" ICR No. 1713.06 titled "Information Collection Request for Part 71 Federal Operating Permit Regulations;" and ICR No. 1230.23 titled "Information Collection Request for Prevention of Significant Deterioration and Nonattainment New Source Review (40 CFR Part 51 and 52)." The EPA also employed information obtained from an in-depth review of six pilot flexible permits. After conducting our review, EPA issued a report setting forth the results of the analysis. A copy of the report as well as individual pilot permit reviews can be found at: <http://www.epa.gov/ttn/oarpg/t5pgm.html>.

- 3.4** **Frequent Collection** **Effects of Less** In general, the information collections included in this ICR are one-time submittals per activity (e.g., permit application, permit issuance, permit renewal). The exceptions to this are avoided significant and minor permit modifications under the operating permit program, which EPA estimates at one significant modification per source per 5 years and one to five minor modifications per source per year; avoided minor NSR permits under the NSR program, which EPA estimates at zero to five per source per year; and avoided PSD/NSR permits under the NSR program, which EPA estimates at one per source per 5 years. See section 6.3 of this ICR for more information on these estimates.
- 3.5** **Guidelines** **General** None of the reporting or recordkeeping requirements violate any of the regulations established by OMB at 5 CFR 1320.5. Parts 51, 52, 70, and 71 require retention of all monitoring data and support information and all permit applications, proposed permits, and final permit records for a period of 5 years. These records are necessary to fulfill the intent of titles I and V to assure compliance with applicable requirements. Questions regarding the obligations of a source and its status of compliance can be resolved through such records.
- 3.6** **Confidentiality** All information, other than confidential business information, relating to the permitting of sources under the operating permit and NSR programs and related to compliance monitoring are required by section 503(e) of the Act to be subject to public review at all times. Section 70.4(b)(3)(viii) requires the permitting authority to make available to the public any permitting information except that entitled to protection from disclosure under section 114(c) of the Act. Protected information may be required to be submitted directly to EPA. Such information will be stored in EPA's Confidential Business Information office.
- 3.7** **Questions** **Sensitive** The consideration of sensitive questions (i.e., sexual, religious, personal or other private matters) is not applicable to the NSR or operating permit programs. The information gathered for purposes of establishing an operating permit for a source do not include personal data on any owner or operator.

4 The Respondents and the Information Requested

4.1 Respondents Respondents to this information collection come from two groups: permitting authorities (PAs) and sources required to obtain an operating permit and/or NSR permit.

All states are required by title V to develop a part 70 operating permits program. In many instances, local agencies administer a program in their jurisdiction in lieu of the state and are thereby subject to the same program requirements as states. In total, there are 112 state, territorial, and local agencies administering operating permits programs. Approximately twelve PAs have already been involved in developing flexible air permits for operating permit sources as part of EPA's pilot program. For sources located in Indian country and the Outer Continental Shelf, for Deep Water Ports, and when permitting authorities fail to administer the part 70 operating permit program, EPA issues part 71 federal operating permits.

Under title V, all major stationary sources must obtain an operating permit. However, not all major sources will be interested in pursuing a flexible air permit. Based on EPA's pilot experience, sources most likely to benefit from comprehensive flexible permitting techniques (e.g., NSR projects and advance approval of changes subject to minor NSR) include those facilities with short time-to-market demands; the need to accommodate rapid shifts of product lines, processes, and production levels; active manufacturing programs that require rapid and iterative changes to operations and equipment; upcoming renovation or expansion projects; and active pollution prevention programs with continuous process improvements. Additional sources are likely to benefit from simpler flexible permitting techniques, such as alternative operating scenarios (AOSs) and approved replicable methodologies (ARMs) that do not involve NSR.

When the period covered by this ICR begins, EPA estimates that there will be 16,668 sources subject to state and local part 70 programs.¹ The EPA estimates that there are 123 part 71 sources.² This results in an estimated total of 16,791 title V sources (i.e., the sum of part 70 and part 71 sources).

To determine the overall number of major sources likely to benefit from a flexible permit, EPA conducted the following analysis. From the National

¹ United States Environmental Protection Agency. *Information Collection Request for Part 70 Operating Permit Regulations*. ICR No. 1587.07. April 2007, page 14.

² United States Environmental Protection Agency. *Information Collection Request for Part 71 Federal Operating Permit Regulations*. ICR No. 1713.06. April 2007, page 11.

Emission Inventory (NEI) database, we identified approximately 3,500 sources that both match the SIC codes identified in Table 1 and are likely to be subject to title V permitting (i.e., are major sources for criteria pollutants and/or HAPs). We selected the SIC codes in Table 1 based on the types of sources that took part in or inquired about pilots. (Such sources may benefit from the more comprehensive flexible permits.) This represents approximately 21 percent of the total estimated sources subject to the operating permit program (i.e., 3,500 potential flexible permit sources divided by 16,766 total parts 70/71 operating permit sources).³ We do not believe that all sources in these source categories share the characteristics of the pilot sources, and therefore estimate that 10 percent of all sources will seek comprehensive flexible permits involving an NSR project or minor NSR advance approval. We further estimate that an additional 20 percent of all sources will seek simpler flexible permits that do not involve NSR. However, the commenters on the proposed Flexible Air Permits rule indicated that many permitting authorities and sources are already working together to create these types of flexible permits under the existing regulatory framework. Accordingly, for the purposes of this ICR we estimate that 5 percent of all sources would seek a comprehensive flexible permit absent the final Flexible Air Permits rule, and that another 10 percent of all sources would seek simpler flexible permits absent the rule. As a result of the final Flexible Air Permits rule, which clarifies and publicizes the availability of these flexible permit approaches, we estimate that an additional 5 percent of sources will seek comprehensive flexible permits and an additional 10 percent of sources will seek simpler flexible permits. See section 6.1 and Table 5 for more detailed information on the universe of respondents.

³ The most recent finalized, quality-assured NEI is for 2002. Accordingly, for this calculation we used the number of major sources in the Table 1 SIC codes from the 2002 NEI (approximately 3,500) and the number of title V sources in September 2006 (16,643 part 70 sources and 123 part 71 sources) to match the time frames as closely as possible within the available data.

Table 1		
Industry Sources Likely to Seek Comprehensive Flexible Permits		
Industry Group	SIC	NAICS
Aerospace Manufacturing	372	336411, 336412, 332912, 336411, 335413
Automobile Manufacturing	371	336111, 336112, 336712, 336211, 336992, 336322, 336312, 33633, 33634, 33635, 336399, 336212, 336213
Industrial Organic Chemicals	286	325191, 32511, 325132, 325192, 225188, 325193, 32512, 325199
Converted Paper and Paperboard Products	267	322221, 322222, 322223, 322224, 322226, 322231, 326111, 326112, 322299, 322291, 322232, 322233, 322211
Magnetic Tape Manufacturing	369	334613
Petroleum Refining	291	32411
Other Coating Operations	226, 229, 251, 252, 253, 254, 267, 358, 363	313311, 313312, 314992, 33132, 337122, 337121, 337124, 337215, 337129, 37125, 337211, 337214, 337127, 322221, 322222, 322226, 335221, 335222, 335224, 335228, 333312, 333415, 333319
Paper Mills	262	322121, 322122
Pharmaceutical Manufacturing	283	325411, 325412, 325413, 325414
Printing and Publishing	275	323114, 323110, 323111, 323113, 323112, 323115, 323119
Semiconductors	367	334413
Specialty Chemical Batch Processes	282, 283, 284, 285, 286, 287, 289, 386	3251, 3252, 3253, 3254, 3255, 3256, 3259, except 325131 and 325181.

4.2 Requested Information This ICR reflects all information collection activities associated with the changes to parts 70 and 71 operating permit programs and parts 51 and 52 NSR program arising from flexible air permits. Following are lists of the data items submitted by sources and permitting authorities and program activities performed by permitting authorities and sources. These lists include only those items and activities that represent the incremental burden impact associated with flexible air permitting.

4.2.1 Submitted Data Items Table 2 lists the data items submitted by sources and permitting authorities that are relevant to flexible permitting and pursuant to the requirements of the parts 70 and 71 operating permit program and parts 51/52 NSR program.

Table 2		
Data Items Submitted		
Citation	Data Item	Recipient(s)
Sources		
Parts 70/71	Application for permits and permit renewals	EPA and Permitting Authorities
	Significant Permit Modifications	
	Minor Permit Modifications	
Parts 51/52	Minor NSR Application	
	PSD Application	
	NA NSR Application	
Permitting Authorities		
Part 70	Application for permits and permit renewals	EPA
	Draft/proposed permits or permit renewals	
	Final permits	
Parts 51/52	PSD Application	
	NA NSR Application	

4.2.2

Activities Table 3 lists activities relevant to flexible permitting and pursuant to the requirements of parts 70/71 operating permit program and parts 51/52 NSR program.

Table 3		
Activities		
Citation	Activities Relevant Under Traditional Permitting Scenario	Activities Relevant Under Flexible Permitting Scenario
Sources		
Parts 70/71	Permit Application	Permit Application
	Draft Permit Preparation	Draft Permit Preparation
	Permit Renewal	Permit Renewal
	Significant Permit Modifications	Significant Permit Modifications
	Minor Permit Modifications	
Parts 51/52	Minor NSR	Minor NSR
	PSD	PSD
	NA NSR	NA NSR
Permitting Authorities		
Part 70	Permit Application Review	Permit Application Review
	Draft Permit Preparation	Draft Permit Preparation
	Permit Renewal Preparation	Permit Renewal Preparation
	Interaction with EPA	Interaction with EPA
	Review of Significant Permit Modifications	Review of Significant Permit Modifications
	Review of Minor Permit Modifications	
Parts 51/52	Review of minor NSR permit applications	
	Review of PSD permit applications	
	Review of NA NSR permit applications	

Table 3		
Activities		
Citation	Activities Relevant Under Traditional Permitting Scenario	Activities Relevant Under Flexible Permitting Scenario
EPA		
Part 70	Proposed Permit Review	Proposed Permit Review
	Interaction with Permitting Authorities	Interaction with Permitting Authorities
	Review of Significant Permit Modifications	Review of Significant Permit Modifications
Part 71	Permit Application Review	Permit Application Review
	Draft Permit Preparation	Draft Permit Preparation
	Permit Renewal Preparation	Permit Renewal Preparation
	Review of Significant Permit Modifications	Review of Significant Permit Modifications
	Review of Minor Permit Modifications	
Parts 51/52	Review of minor NSR permits	Review of minor NSR permits
	Review of PSD permits	Review of PSD permits
	Review of NA NSR permits	Review of NA NSR permits

Table 4			
Schedule for Data Items Submitted			
Citation	Data Item	Schedule	Recipient(s)
Sources			
Part 70	Application for permits and permit renewals	New permit applications: within one year after a source becomes subject to the program. Permit renewal applications: at least six months prior to the permit's expiration.	EPA and Permitting Authorities
	Significant Permit Modifications	No schedule; at each source's discretion.	
Parts 51/52	PSD Application	No schedule; at each source's discretion dependent upon its anticipated construction commencement date.	EPA and Permitting Authorities
	NSR Application		
Permitting Authorities			
Part 70	Application for permits and permit renewals	Submitted with the proposed permit or permit revision.	EPA
	Draft/proposed permits or permit renewals	Submitted when state wants to commence EPA review period.	
	Final permits	Recommended soon after it is issued, but no formal deadline.	

Table 5**Number of Title V Sources Obtaining a Flexible Permit**

Year	TIER 1				TIER 2			Total	
	NSR Projects		Minor NSR		Total Tier 1	Existing Sources	New Sources		Total Tier 2
	PSD	NA NSR	AAs¹	NAAAs²					
1	56	14	105	105	280	559	5	564	844
2	56	14	105	105	280	560	5	565	845
3	56	14	105	105	280	560	5	565	845
TOTAL	168	42	315	315	840	1,679	15	1,694	2,534

¹Sources in attainment areas.²Sources in nonattainment area.

The figures in Table 5 are based on a number of assumptions. The following assumptions pertain to Tier 1 permits:

- Approximately 25 percent of Tier 1 permits will be NSR project permits; approximately 75 percent will be minor NSR/PAL/emissions cap permits. This assumption is based on the fact that most of the pilot permits were of the latter type.
- Of NSR project permits, approximately 80 percent will be PSD permits. Under NA NSR, sources are expected to be required to obtain offsets up front for the full amount of the emissions increases allowed under the NSR project permit although the emissions increases may occur years later or not at all. This makes NSR projects less attractive in nonattainment areas.
- Of the minor NSR/PAL/emissions cap Tier 1 permits, approximately half will be issued to sources in attainment areas and half to sources in nonattainment areas. This estimate roughly mirrors the percentage of the U.S. population that lives in ozone attainment and nonattainment areas; there is no regulatory factor pushing in either direction.
- All permitting authorities will be able to issue Tier 1 permits without revising their PSD, NA NSR, or minor NSR programs. Thus, Tier 1 permits of all types will be issued in equal numbers in each year covered by the ICR.
- Based on the preceding assumptions, EPA estimates that there will be 280 Tier 1 permits issued in each year covered by this ICR. Of these, 70 will be major NSR project permits (56 PSD permits and 14 NA NSR permits) and 210 will be minor NSR/PAL/emissions cap permits (105 in attainment areas and 105 in nonattainment areas).

The following assumptions pertain to the estimated numbers of Tier 2 permits in each of the 3 years covered by this ICR:

- Of the 16,791 existing sources subject to title V at the outset of the 3-year period covered by this ICR, 10 percent (about 1,679) will obtain Tier 2 permits during the period. Of the 50 new sources that become subject to title V each year, 10 percent will have Tier 2 features included in their initial permits (i.e., 5 per year for a total of 15 over the 3-year period of the ICR).
- All permitting authorities will be able to issue Tier 2 permits without revising their part 70 programs. Thus, Tier 2 permits will be issued in equal numbers in each year covered by the ICR.
- Based on the preceding assumptions, EPA estimates that there will be about 564 Tier 2 permits issued in the first year (to 559 existing sources and 5 new sources). In addition, 565 Tier 2 permits will

be issued in second year and in the third year (to 560 existing sources and 5 new sources).

6.2 **Estimating** Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the incremental time to develop a flexible air operating permit for facilities interested in pursuing this option; as well as the incremental time spent by permitting authorities and EPA to develop and ensure compliance with the flexible permit. The Agency estimates incremental burden based on its experience with the flexible permitting pilot initiative and an in-depth review of six pilot flexible permits.

Burden

6.2.1 **Estimating** To estimate the incremental source burden associated with flexible air permit preparation and applications, EPA assumes that flexible permits fall into two tiers of permitting. As discussed previously in section 6.1, the Tier 1 flexibility provisions are more complicated (i.e., include either a NSR project issued under major NSR or a combination of minor NSR advance approvals and a PAL or cap on potential emissions). Accordingly, the Tier 1 permits entail a burden under the NSR program to obtain the necessary NSR permit. The estimated burden for these NSR permits varies depending on whether the permit is a NSR project permit or a minor NSR permit, and depending on whether the source is located in an attainment area or nonattainment area for the pollutant(s) involved. The EPA's estimates of the NSR permitting burden associated with such permits are presented in Tables 6 and 7. As shown in the tables, for a PSD or NA NSR project permit, we estimate a relatively small increase in burden over the current burden for a PSD or NA NSR permit. In the case of a minor NSR permit for a Tier 1 permit, we estimate a significant increase over the current burden for a minor NSR permit, which is estimated to average 40 hours.⁴ We believe that in this situation, the permitting process and burden for minor NSR permits for Tier 1 permits will be more similar to major NSR permits than to typical minor NSR permits.

Source Burden

In addition to the NSR permitting burden, we estimate that each source will incur an incremental burden to add the NSR permit terms and conditions to its title V permit and to supplement these requirements with terms and conditions to address any other applicable requirements and to create AOSs and ARMs as necessary, thereby creating a Tier 1 flexible air permit. This may occur either through a significant permit modification

⁴ United States Environmental Protection Agency. *Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review*. ICR No. 1230.23. 2008, page 17.

(SPM) or at the time of permit renewal. (We believe it unlikely that new sources will pursue Tier 1 permits since new sources typically are permitted and built to handle foreseeable growth.) The current burden assigned to an SPM is 80 hours,⁵ but we believe that 120 hours is a better estimate for a complicated, Tier 1 permit. We estimate an incremental burden of 80 hours for adding Tier 1 permit terms and conditions at the time of title V permit renewal. We assume that half of the sources that obtain a Tier 1 permit will do so through an SPM and the other half at permit renewal.

The EPA estimates that there will be significant burden reduction after issuance of Tier 1 flexible air permits. We estimate that each source with a Tier 1 permit will avoid one major NSR permit action in the 5 years following issuance of the Tier 1 permit. Each source also will avoid the SPM that otherwise would have been required to add the major NSR permit terms and conditions to its title V permit. In addition, we estimate that each source with a Tier 1 permit will avoid five minor NSR permit actions per year. Finally, we estimate that each source with a Tier 1 permit will avoid five title V minor permit modifications (MPMs) per year – approximately three that otherwise would have been required to add minor NSR permit terms and conditions to the title V permit and two additional MPMs each year for changes at the source that do not involve minor or major NSR. We do not believe that every minor NSR permit necessitates an MPM for a variety of reasons. Some permitting authorities have implemented "merged programs" that accomplish NSR and title V requirements in a single permit action. In addition, group processing of MPMs is permissible under part 70, and permitting authorities may choose to merge minor NSR and title V permitting actions on a case-by-case basis. Lastly, some part 70 programs include off-permit provisions, which may apply to some minor NSR permits so that the source can wait until permit renewal to incorporate the minor NSR permit requirements into the title V permit. Table 8 presents the incremental burden reduction for each type of permit action avoided as a result of a flexible permit.

Tier 2 flexible air permits involve less complicated title V permit terms and conditions (e.g., AOSs for known process changes, ARMs). They do not include advance approval under minor or major NSR, and therefore do not result in any incremental burden increases or decreases under the NSR program. The EPA estimates that each source will incur an incremental burden to add Tier 2 flexibility features to its title V permit, thereby creating a Tier 2 flexible air permit. For existing sources, this may be accomplished either with an SPM (with an incremental burden of 80 hours, the current burden assigned to an SPM) or at the time of permit renewal (with an incremental burden that we estimate at 60 hours). We

5 ² United States Environmental Protection Agency. *Information Collection Request for Part 70 Operating Permit Regulations*. ICR No. 1587.07. April 2007, page 17.

assume that half of the existing sources that obtain a Tier 2 permit will do so through an SPM and the other half at permit renewal. New sources may incorporate Tier 2 flexibility at initial permit issuance, at which time we estimate they will incur an incremental burden of 60 hours. After a source obtains a Tier 2 flexible permit, we estimate that it avoids one MPM per year.

The preceding burden estimates are based on EPA’s experience with pilot permits. We believe that our estimates of incremental burden reduction are conservative in that our evaluation of six flexible permit pilots describes the range of permit actions avoided from 5 for one facility to 150 for another facility.

Table 6			
Source Respondent Burden Hours Under Parts 51/52 NSR Regulations for Tier 1 Permits in Attainment Areas			
Activity	Current Burden per PSD Permit¹	Burden per NSR Project PSD Permit	Burden per Minor NSR/ PAL/Cap Permit
Preparation and Planning			
Determination of Compliance Requirements	170	170	130
Obtain Guidance on Data Needs	120	120	90
Preparation of BACT Engineering Analysis	102	153	40
Data Collection and Analysis			
Air Quality Modeling	200	200	50
Determination of Impact on Air Quality Related Values	100	100	0
Post-construction Air Quality Monitoring	50	50	0
Permit Application			
Preparation and Submittal of Permit Application	60	60	50
Public Hearings	24	39	24
Revisions to Permit	40	40	20
TOTAL	866	932	404
¹ United States Environmental Protection Agency. <i>Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review</i> . ICR No. 1230.23. 2008, page 17.			

Table 7

**Source Respondent Burden Hours Under Parts 51/52 NSR Regulations for Tier 1 Permits
in Nonattainment Areas**

Activity	Current Burden per NA NSR Permit¹	Burden per NSR Project NA NSR Permit	Burden per Minor NSR/PAL/Cap Permit
Preparation and Planning			
Determination of Compliance Requirements	150	150	115
Obtain Guidance on Data Needs	100	100	75
Data Collection and Analysis			
Preparation of LAER Engineering Analysis	52	52	20
Demonstrate Offsets	52	52	0
Prepare Analysis of Alternative Sites, Processes, etc.	60	60	0
Air Quality Modeling	130	130	20
Permit Application			
Preparation and Submittal of Permit Application	49	49	38
Public Hearings	25	40	25
Revisions to Permit	24	24	12
TOTAL	642	657	305

¹ United States Environmental Protection Agency. *Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review*. ICR No. 1230.23. 2008, page 17.

Table 8			
Source Incremental Burden Hour Reductions by Activity Avoided			
Activity Avoided	Current Burden^{1,2}	Flexible Permitting Burden	Incremental Burden Reduction
Parts 70/71: Operating Permit Regulations			
Significant Permit Modification	80	0	-80
Minor Permit Modification	40	0	-40
Parts 51/52			
Minor NSR Permit	40 (8 to 120)	0	-120
PSD Permit	866	0	-866
NA NSR Permit	642	0	-642
¹ Parts 70/71 current burdens from <i>Information Collection Request for Part 70 Operating Permit Regulations</i> . ICR No. 1587.07. United States Environmental Protection Agency. April 2007, page 11. ² Parts 51/52 current burdens from <i>Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review</i> . ICR No. 1230.17. United States Environmental Protection Agency. 2008, pages 11 and 17.			

Additional assumptions or purposes of estimating burden reductions:

- Sources with Tier 1 permits avoid one major NSR permit and one associated SPM per 5 years. For purposes of the 3 years covered by this ICR, we assume that 20 percent of sources will avoid a major NSR permit and SPM for each year that they have a Tier 1 permit. Thus, of sources that receive a Tier 1 permit in the first year under this ICR, 60 percent will avoid a major NSR permit and SPM over the course of the 3 years covered by this ICR (i.e., 20 percent per year). Forty percent of the sources that receive Tier 1 permits in the second year and 20 percent of the third year sources will avoid a major NSR permit and SPM during the 3 years covered by this ICR.
- Sources with Tier 1 permits avoid five minor NSR permits and five MPMs in each full year after receiving the Tier 1 permit. In the year that sources receive a Tier 1 permit, we assume that they avoid an average of two minor NSR permits and two MPMs to account for the fact that the Tier 1 permit could be issued at any point in the year. For sources with Tier 2 permits, we assume that they avoid 1 MPM each year, including the year that they receive the permit.
- For each minor NSR permit that a source avoids as a result of its Tier 1 permit, we estimate that its burden is reduced by 120 hours. The current burden assigned to sources for a minor NSR permit is 40 hours. However, the current 40-hour burden is said to be a weighted

average, where the burden for a single permit may vary between 8 and 120 hours depending on the complexity of the permit action. We believe that the minor NSR permits that are avoided by sources that choose to undertake the effort to obtain a Tier 1 permit (so that they can avoid such minor NSR permits) will tend to be of the most complex sort.

6.2.2

Permitting Authority Burden

Estimating To estimate the incremental permitting authority burden associated with flexible permits, we begin again with the burden associated with the NSR permits that underlie Tier 1 flexible air permits. As discussed in section 6.2.1, there are four types of such NSR permits – NSR project PSD permits, minor NSR permits in attainment areas, NSR project NA NSR permits, and minor NSR permits in nonattainment areas. The EPA’s estimate of the burden associated with these permitting actions, as compared with the current burden for PSD and NA NSR permits, is presented in Tables 9 and 10.

To complete a Tier 1 flexible permit, we believe that the permitting authority will incur an incremental burden hours to incorporate the NSR permit terms and conditions into the source’s title V permit along with necessary additional title V flexibility terms and conditions. This title V permit action may occur through an SPM or at the time of permit renewal. The current burden associated with an SPM is 90 hours, and we estimate 90 hours for an SPM to address a Tier 1 permit. We estimate an incremental burden of 60 hours for Tier 1 permits created during the title V permit renewal process. As noted above in section 6.2.1, we assume that half of the sources that obtain a Tier 1 permit will do so through an SPM and the other half at permit renewal, and these same proportions carry through for the associated permitting authorities.

After the added burden associated with issuing flexible permits, permitting authorities will experience a significant burden reduction as a result of major and minor NSR permits and the associated title V SPMs and MPMs that will subsequently be avoided. See section 6.2.1 above for a discussion of EPA’s estimate of the numbers of each such permitting action that will be avoided by Tier 1 sources and, therefore, their permitting authorities. See Table 11 for our estimate of the incremental burden reduction for permitting authorities when each type of permit is avoided. The same assumptions regarding the timing of burden reductions presented at the end of section 6.2.1 apply also to permitting authorities. For each minor NSR permits that is avoided, we estimate that the permitting authority's burden is reduced by 90 hours because we believe that the minor NSR actions that are avoided would tend to be of the most complex sort.

The EPA estimates that permitting authorities will incur an incremental burden for each source to which they issue a Tier 2 flexible air permit under title V. For existing sources, this may be accomplished either with an SPM (with an incremental burden of 60 hours) or at the time of permit renewal (with an incremental burden that we estimate at 45 hours). Although the current burden assigned to an SPM for a permitting authority is 90 hours, we believe that Tier 2 permits typically will not require this level of effort for permitting authorities. Rather, we believe that most of the complexities of the permit will be addressed by the source in its application. In addition, permitting authorities and source that commented on the proposed rulemaking indicated that many permitting authorities already issue flexible permits using these types of approaches and are, therefore, very familiar with them. Again as noted above in section 6.2.1, we assume that half of the existing sources that obtain a Tier 2 permit will do so through an SPM and the other half at permit renewal, and these same proportions carry through for the associated permitting authorities. New sources may incorporate Tier 2 flexibility at initial permit issuance, at which time we estimate they will incur an incremental burden of 45 hours. After a source obtains a Tier 2 flexible permit, we estimate that the source and the permitting authority avoid one MPM per year.

The EPA estimates that no state and local permitting authorities will need to prepare modifications to their SIPs to add NSR project provisions. In addition, we estimate that no permitting authorities will determine that they need to revise their part 70 rules in order to be able to issue flexible title V permits.

Table 9**State and Local Permitting Authority Respondent Burden Hours Under Parts 51/52 NSR Regulations for Tier 1 Permits in Attainment Areas**

Activity	Current Burden per PSD Permit¹	Burden per NSR Project PSD Permit	Burden per Minor NSR/PAL/Cap Permit
Attend Preapplication Meetings	36	45	30
Answer Respondent Questions	20	25	18
Log In and Review Data Submissions	16	16	12
Request Additional Information	8	8	5
Analyze for and Provide Confidentiality Protection	24	24	18
Prepare Completed Applications for Processing	38	48	32
File and Transmit Copies	8	8	8
Prepare Preliminary Determination	36	45	24
Prepare Notices for and Attend Public Hearings	40	55	40
Application Approval	48	60	40
Notification of Applicant of PA Determination	8	8	8
Submittal of Information on BACT / LAER to RBLC	19	19	0
TOTAL	301	361	235

¹ United States Environmental Protection Agency. *Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review*. ICR No. 1230.23. 2008, page 18.

Table 10**State and Local Permitting Authority Respondent Burden Hours Under Parts 51/52 NSR Regulations for Tier 1 Permits in Nonattainment Areas**

Activity	Current Burden per NA NSR Permit¹	Burden per NSR Project NA NSR Permit	Burden per Minor NSR/PAL/Cap Permit
Attend Preapplication Meetings	7	9	6
Answer Respondent Questions	10	12	9
Log In and Review Data Submissions	10	10	6
Request Additional Information	4	4	3
Analyze for and Provide Confidentiality Protection	4	4	3
Prepare Completed Applications for Processing	16	20	12
File and Transmit Copies	4	4	4
Prepare Preliminary Determination	10	13	8
Prepare Notices for and Attend Public Hearings	18	33	18
Application Approval	21	26	16
Notification of Applicant of PA Determination	2	2	2
Submittal of Information on BACT / LAER to RBLC	21	21	0
TOTAL	127	158	87

¹ United States Environmental Protection Agency. *Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review*. ICR No. 1230.23. 2008, page 18

Table 11			
State and Local Permitting Authority Incremental Burden Hour Reductions by Activity Avoided			
Activity Avoided	Current Burden^{1,2}	Flexible Permitting Burden	Incremental Burden Reduction
Part 70: Operating Permit Regulations			
Significant Permit Modification	90	0	-90
Minor Permit Modification	30	0	-30
Parts 51/52			
Minor NSR Permit	30 (6 to 90)	0	-90
PSD Permit	301	0	-301
NA NSR Permit	127	0	-127
¹ Parts 70/71 current burdens from <i>Information Collection Request for Part 70 Operating Permit Regulations</i> . ICR No. 1587.07. United States Environmental Protection Agency. April 2007, page 18. ² Parts 51/52 current burdens from <i>Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review</i> . ICR No. 1230.23. United States Environmental Protection Agency. 2008, pages 11 and 18.			

6.2.3

Estimating The EPA provides oversight to the NSR program, reviewing major NSR permits and selected minor NSR permits. Our estimate of the burden incurred by the Agency associated with the review of the NSR permits underlying Tier 1 flexible air permits is presented in Table 12.

EPA

Burden

The EPA also provides oversight to the state and local permitting authorities' part 70 programs. We believe that that the Agency will incur an incremental burden in this role for each Tier 1 part 70 flexible permit, which may be created with an SPM or at permit renewal. The current EPA burden associated with reviewing each SPM is 8 hours, but we estimate 12 hours to review an SPM for a Tier 1 permit. In addition, EPA typically consults with permitting authorities during development of about 25 percent of SPMs. We estimate that for Tier 1 permits such consultations will require 12 hours (versus 8 hours for a typical SPM). Thus, consultations will average about 3 hours per Tier 1 permit that is accomplished by way of an SPM, for a total of 15 hours for each such permit. We estimate an incremental burden of 10 hours for EPA review of Tier 1 permits created during the title V permit renewal process. As noted above in section 6.2.1, we assume that half of the sources that

obtain a Tier 1 permit will do so through an SPM and the other half at permit renewal, and these same proportions carry through for EPA's review and consultation.

After Tier 1 flexible permits have been issued, EPA will experience incremental burden reductions associated with the major and minor NSR permits and SPMs and MPMs that the sources with Tier 1 permits will avoid in the ensuing years. See Table 13 for our estimate of the incremental burden reduction for EPA when each type of permit is avoided. See section 6.2.1 above for a discussion of EPA's estimate of the numbers of each such permitting action that will be avoided by Tier 1 sources. The same assumptions regarding the timing of burden reductions presented at the end of section 6.2.1 apply also to EPA.

The EPA believes that the Agency will incur incremental burden for each Tier 2 flexible permit issued under part 70. Existing sources may obtain a Tier 2 part 70 permit either with an SPM or at the time of permit renewal. Again as noted above in section 6.2.1, we assume that half of the existing sources that obtain a Tier 2 permit will do so through an SPM and the other half at permit renewal, and these same proportions carry through for EPA's review and consultation. New sources may incorporate Tier 2 flexibility at initial permit issuance. For SPMs, we estimate that EPA's burden will be 10 hours, which is based on the existing burden for an SPM (8 hours) plus an average of 2 hours per permit incurred for consultations with the permitting authority (consulting on 25 percent of the permits; 8 hours per consultation). For review of Tier 2 permits created at the time of permit renewal or initial permit issuance, we estimate EPA's incremental burden at 8 hours per permit. After a source obtains a Tier 2 flexible permit, we estimate that the source and the Agency avoid action on one MPM per year.

As noted previously, we believe that no permitting authorities will have to revise their NSR SIPs or part 70 programs to enable them to issue flexible permits. Thus, EPA will not be required to review and approve SIP or part 70 program revisions.

In addition to EPA's oversight role under part 70, the Agency acts as a permitting authority under part 71. In this role, EPA will experience the same level of burden and burden reduction for each permitting action that is discussed above in section 6.2.2. The EPA currently administers part 71 permits for approximately 123 existing sources. Thus, approximately 6 (i.e., 5 percent) are estimated to obtain Tier 1 flexible permits during the 3 years covered by this ICR, and approximately 12 (i.e., 10 percent) are estimated to obtain Tier 2 flexible permits during the period.

Table 12

Agency Burden Hours Under Parts 51/52 NSR Regulations for Tier 1 Permits

Activity	Current Burden per Major NSR Permit ¹	Burden per NSR Project Permit	Burden per Minor NSR/PAL/Cap Permit
Attainment Areas			
Review and Verify Applicability Determination	2	2	2
Review Control Technology Determination	4	5	2
Evaluate Air Quality Monitoring	4	4	0
Evaluate Alternative and Secondary Impact Analysis	2	2	2
Evaluate Class I Area Analysis	2	2	0
Administrative Tasks	1	1	1
TOTAL	15	16	7
Nonattainment Areas			
Review and Verify Applicability Determination	2	2	2
Review Control Technology Determination	4	5	2
Evaluate Offsets	1	1	0
Evaluate Air Quality Monitoring	5	5	0
Evaluate Alternative and Secondary Impact Analysis	3	3	2
Administrative Tasks	1	1	1
TOTAL	16	17	7
¹ United States Environmental Protection Agency. <i>Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review</i> . ICR No. 1230.23. 2008, page 19			

Table 13			
Agency Incremental Burden Hour Reductions by Activity Avoided			
Activity Avoided	Current Burden^{1,2}	Flexible Permitting Burden	Incremental Burden Reduction
Part 70: Operating Permit Regulations			
Significant Permit Modification	8	0	-8
Minor Permit Modification	1	0	-1
Parts 51/52			
Minor NSR Permit ³	2	0	-2
PSD Permit	15	0	-15
NA NSR Permit	16	0	-16
¹ Parts 70/71 current burdens from <i>Information Collection Request for Part 70 Operating Permit Regulations</i> . ICR No. 1587.07. United States Environmental Protection Agency. April 2007, page 18. ² Parts 51/52 current burdens from <i>Information Collection Request for 40 CFR Parts 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review</i> . ICR No. 1230.23. United States Environmental Protection Agency. January 2008, page 19. ³ Synthetic/netting-based minor NSR permits; about 4 percent of total minor NSR permits.			

6.3 Estimating Costs

6.3.1

Source Costs

Estimating The purpose of this ICR is to estimate the incremental change in burden and cost as compared to the three approved collections that the flexible air permits rulemaking will affect. For this reason, EPA adopts the source wage rates estimated in the approved collections for that portion of the incremental burden that affects each respective collection. That is, we apply the source wage rate in the part 70 ICR renewal to the part 70 incremental burden hours, the part 71 wage rate to the part 71 incremental burden hours, and the parts 51/52 wage rate to the parts 51/52 incremental burden hours. These hourly wages are as follows:

- Part 70: \$38/hr based on in-house labor for all permitting task except the initial permit applications. For the initial permit application, which applies only to new sources obtaining a Tier 2 permit, the wage rate is \$143/hr.
- Part 71: Same as part 70 rates.
- Parts 51/52: \$97.61

The EPA estimates that this rulemaking will have no effect on capital costs or operation & maintenance (O&M) costs in any of the approved ICRs affected by this rulemaking. Thus, the incremental capital and O&M costs are zero, and labor costs constitute the entire incremental cost of the rulemaking to sources.

Section 6.2.1 above describes the incremental burden for each flexible permitting source. Table 14 below includes the total burden and cost and the average annual burden and cost for Tier 1 and Tier 2 permits and for each program (parts 51/52, part 70, and part 71).

6.3.2 Estimating Permitting Authority and Agency Costs

To best compare the incremental impacts to the existing, approved collections, EPA adopts the permitting authority wage rates estimated in the respective approved collections. Similarly, we adopt the labor rates for EPA used in each of these existing, approved ICRs. These rates are as follows:

- Part 70: \$45/hr for both permitting authorities and EPA.
- Part 71: Same as part 70 rates.
- Parts 51/52: \$77.22 for permitting authorities; \$43.17 for EPA.

As discussed above for sources, we estimate that this rulemaking will not affect capital costs or operation & maintenance (O&M) costs for permitting authorities or EPA. Thus, the incremental capital and O&M costs are zero, and labor costs constitute the entire incremental cost of the rulemaking to permitting authorities and EPA.

Sections 6.2.2 and 6.2.3 above describe the incremental burden associated with flexible permitting for permitting authorities and EPA. Tables 15 and 16 below include the permitting burden in hours and costs for permitting authorities and EPA.

Table 14

Source Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden (hr/activity)	No. of Respondents/Frequency			Labor Cost (\$/hr)	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
TIER 1 FLEXIBLE PERMITS									
Parts 51/52: NSR Regulations									
NSR Project – PSD	932	56	56	56	97.61	156,576	15,283,383	52,192	5,094,461
Minor NSR – AA	404	105	105	105	97.61	127,260	12,421,849	42,420	4,140,616
NSR Project – NA NSR	657	14	14	14	97.61	27,594	2,693,450	9,198	897,817
Minor NSR - NAA	305	105	105	105	97.61	96,075	9,377,881	32,025	3,125,960
PSD avoided (1 in 5 yrs) ¹	-866	32	64	97	97.61	-167,138	-16,314,340	-55,713	-5,438,113
NAA NSR avoided (1 in 5 yrs) ²	-642	24	48	71	97.61	-91,806	-8,961,184	-30,602	-2,987,061
Minor NSR avoided (5/yr) ³	-120	560	1,960	3,360	97.61	-705,600	-68,873,616	-235,200	-22,957,872
NSR SUBTOTAL						-557,039	-54,372,577	-185,680	-18,124,192
Parts 70/71: Title V Regulations									
Tier 1 Flexible Air Permit-SPM	120	140	140	140	38	50,400	1,915,200	16,800	638,400
Tier 1 Flexible Air Permit-Permit Renewal	80	140	140	140	38	33,600	1,276,800	11,200	425,600
SPM avoided (1 in 5 yrs) ⁴	-80	56	112	168	38	-26,880	-1,021,440	-8,960	-340,480
MPM avoided (5/yr) ⁵	-40	560	1,960	3,360	38	-235,200	-8,937,600	-78,400	-2,979,200
TITLE V SUBTOTAL						-178,080	-6,767,040	-59,360	-2,255,680
TIER 1 TOTAL						-735,119	-61,139,617	-245,040	-20,379,872
TIER 2 FLEXIBLE PERMITS									
Parts 70/71: Title V Regulations									
Tier 2 Flexible Permit – new sources	60	5	5	5	143	900	128,700	300	42,900
Tier 2 Flexible Permit – existing sources- SPM	80	280	280	280	38	67,200	2,553,600	22,400	851,200
Tier 2 Flexible Permit – existing sources- Permit Renewal	60	279	280	280	38	50,340	1,912,920	16,780	637,640
MPM avoided (1/yr) ⁶	-40	564	1,129	1,694	38	-135,480	-5,148,240	-45,160	-1,716,080
TIER 2 TOTAL – Parts 70/71						-17,040	-553,020	-5,680	-184,340

Table 14

Source Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden	No. of Respondents/Frequency			Labor Cost	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
TOTALS BY PROGRAM									
Parts 51/52: NSR Regulations						-557,039	-54,372,577	-185,680	-18,124,192
Parts 70/71: Title V Regulations						-195,120	-7,320,060	-65,040	-2,440,020
Part 70 alone ⁷						-193,754	-7,268,820	-64,585	-2,422,940
Part 71 alone ⁷						-1,366	-51,240	-455	-17,080

¹ Of sources in attainment areas that receive Tier 1 permits in Year 1, an average of 20% avoid 1 PSD permit in each year of the ICR. Similarly, an average of 20% of sources that receive a Tier 1 permit in Year 2 avoid 1 PSD in each of Years 2 and 3 of the ICR, and an average of 20% of sources that receive a Tier 1 permit in Year 3 avoid 1 PSD permit in Year 3. The number of sources in attainment areas that receive Tier 1 permits in each year of the ICR is (NSR Project PSD + minor NSR AA) for that year. Thus, for example, the total number of PSD permits avoided in Year 3 is 20% of the sources that received a Tier 1 permit in Year 1 ($0.2 \times 161 = 32.2$) plus 20% of the sources that received a Tier 1 permit in Year 2 ($0.2 \times 161 = 32.2$) plus 20% of the sources that received a Tier 1 permit in Year 3 ($0.2 \times 161 = 32.2$), for a total of 96.6 PSD permits avoided, which rounds to 97.

² Calculated the same as above in footnote 1 except that NA NSR permits are avoided by sources in nonattainment areas that receive Tier 1 permits (NSR Project NAA NSR + minor NSR NAA).

³ In the year that a source receives a Tier 1 permit, it avoids an average of 2 minor NSR permits (to account for when in the year the Tier 1 permit was issued), regardless of whether the source is in an attainment area or nonattainment area. In each subsequent full year that it has the Tier 1 permit, the source avoids 5 minor NSR permits. Thus, for example, in Year 3 the 280 sources that received Tier 1 permits in Year 1 avoid 1,400 minor NSR permits, the 280 sources that received permits in Year 2 avoid 1,400 minor NSR permits, and the 280 sources that received permits in Year 3 avoid 560 minor NSR permits, for a total of 3,360 minor NSR permits avoided.

⁴ Calculated the same as above in footnote 1 except that SPMs are avoided by sources in attainment and nonattainment areas that receive Tier 1 permits.

⁵ Calculated the same as above in footnote 3.

⁶ Calculated the same as above in footnote 3 except that each source with a Tier 2 permit avoids 1MPM per year.

⁷ Calculated using ratio of part 71 permits to all title V permits ($123/16,791 = 0.007$) to apportion the total for parts 70/71 to part 70 and part 71.

Table 15

Permitting Authority Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden (hr/activity)	No. of Respondents/Frequency			Labor Cost (\$/hr)	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
TIER 1 FLEXIBLE PERMITS									
Parts 51/52: NSR Regulations									
NSR Project – PSD	361	56	56	56	77.22	60,648	4,683,239	20,216	1,561,080
Minor NSR – AA	235	105	105	105	77.22	74,025	5,716,211	24,675	1,905,404
NSR Project – NA NSR	158	14	14	14	77.22	6,636	512,432	2,212	170,811
Minor NSR - NAA	87	105	105	105	77.22	27,405	2,116,214	9,135	705,405
PSD avoided (1 in 5 yrs)	-301	32	64	97	77.22	-58,093	-4,485,941	-19,364	-1,495,314
NAA NSR avoided (1/5yrs)	-127	24	48	71	77.22	-18,136	-1,400,431	-6,045	-466,810
Minor NSR avoided (5/yr)	-90	560	1960	3360	77.22	-529,200	-40,864,824	-176,400	-13,621,608
NSR SUBTOTAL						-436,715	-33,723,132	-145,572	-11,241,044
Parts 70/71: Title V Regulations									
Tier 1 Flexible Air Permit-SPM	90	140	140	140	45	37,800	1,701,000	12,600	567,000
Tier 1 Flexible Air Permit-Permit Renewal	60	140	140	140	45	25,200	1,134,000	8,400	378,000
SPM avoided (1 in 5 yrs)	-90	56	112	168	45	-30,240	-1,360,800	-10,080	-453,600
MPM avoided (5/yr)	-30	560	1,960	3,360	45	-176,400	-7,938,000	-58,800	-2,646,000
TITLE V SUBTOTAL						-143,640	-6,463,800	-47,880	-2,532,600
TIER 1 TOTAL						-580,355	-40,186,932	-193,452	-13,395,644
TIER 2 FLEXIBLE PERMITS									
Parts 70/71: Title V Regulations									
Tier 2 Flexible Permit – new sources	45	5	5	5	45	675	30,375	225	10,125
Tier 2 Flexible Permit – existing sources- SPM	60	280	280	280	45	50,400	2,268,000	16,800	756,000
Tier 2 Flexible Permit – existing sources- Permit Renewal	45	279	280	280	45	37,755	1,698,975	12,585	556,325
MPM avoided (1/yr)	-30	564	1,129	1,694	45	-101,610	-4,572,450	-33,870	-1,524,150
TIER 2 TOTAL – Parts 70/71						-12,780	-575,100	-4,260	-191,700

Table 15

Permitting Authority Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden	No. of Respondents/Frequency			Labor Cost	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
TOTALS BY PROGRAM									
Parts 51/52: NSR Regulations						-436,715	-33,723,132	-145,572	-11,241,044
Parts 70/71: Title V Regulations						-156,420	-7,038,900	-52,140	-2,346,300
Part 70 alone						-155,325	-6,989,628	-51,984	-2,329,876
Part 71 alone ¹						-1,095	-49,272	-365	-16,424

¹These values represent EPA burden and costs in its role as the part 71 permitting authority. It is calculated based on the ratio of part 71 permits to all title V permits as explained in Note 7 on Table 14. These values are reproduced in Table 16. See the notes on Table 14 for explanation of other calculations.

Table 16

Agency Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden (hr/activity)	No. of Respondents/Frequency			Labor Cost (\$/hr)	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
TIER 1 FLEXIBLE PERMITS									
Parts 51/52: NSR Regulations – oversight									
NSR Project – PSD	16	56	56	56	43.17	2,688	116,041	896	38,680
Minor NSR – AA	7	105	105	105	43.17	2,205	95,190	735	31,730
NSR Project – NA NSR	17	14	14	14	43.17	714	30,823	238	10,274
Minor NSR - NAA	7	105	105	105	43.17	2,205	95,190	735	31,730
PSD avoided (1 in 5 yrs)	-15	32	64	97	43.17	-2,898	-125,107	-966	-41,702
NAA NSR avoided (1/5 yrs)	-16	24	48	71	43.17	-2,285	-98,635	-762	-32,878
Minor NSR avoided (5/yr) ¹	-2	22	78	134	43.17	-468	-20,204	-156	-6,735
NSR SUBTOTAL						2,161	93,298	720	31,099
Part 70: Title V Regulations - oversight									
Tier 1 Flexible Air Permit-SPM	15	140	140	140	45	6,300	283,500	2,100	94,500
Tier 1 Flexible Air Permit-Permit Renewal	10	140	140	140	45	4,200	189,000	1,400	63,000
SPM avoided (1 in 5 yrs)	-8	56	112	168	45	-2,688	-120,960	-896	-40,320
MPM avoided (5/yr)	-1	560	1,960	3,360	45	-5,880	-264,600	-1,960	-88,200
TITLE V SUBTOTAL						1,932	86,940	644	28,980
TIER 1 TOTAL						4,093	180,238	1,364	60,079
TIER 2 FLEXIBLE PERMITS									
Part 70: Title V Regulations - oversight									
Tier 2 Flexible Permit – new sources	8	5	5	5	45	120	5,400	40	1,800
Tier 2 Flexible Permit – existing sources- SPM	10	280	280	280	45	8,400	378,000	2,800	126,000
Tier 2 Flexible Permit – existing sources- Permit Renewal	8	279	280	280	45	6,712	302,040	2,237	100,680
MPM avoided (1/yr)	-1	564	1,129	1,694	45	-3,387	-152,415	-1,129	-50,805
TIER 2 TOTAL – Part 70						11,845	533,025	3,948	177,675

Table 16

Agency Burden and Cost, 3-Years

Information Collection Activity	Incremental Burden	No. of Respondents/Frequency			Labor Cost	Total Hours	Total Cost (\$)	Annual Hours	Annual Cost (\$)
		Year 1	Year 2	Year 3					
PART 71: PERMITTING AUTHORITY ROLE									
Part 71 permitting for Tier 1 and Tier 2 flexible permits ²						-1,095	-49,272	-365	-16,424
TOTALS BY PROGRAM									
Parts 51/52: NSR Oversight						2,161	93,298	720	31,099
Part 70: Title V Oversight ³						13,681	615,625	4,560	205,208
Part 71: Permitting authority ²						-1,095	-49,272	-365	-16,424

¹EPA typically reviews only about 4% of minor NSR permits. Thus, the overall number of such permits is multiplied by this factor.

²See Table 15, footnote 1.

³ These values are calculated by multiplying the sum of the Tier 1 and Tier 2 burden for EPA oversight of Part 70 programs by the ratio of Part 70 permits to Part 71 permits (0.993) to determine the actual burden to EPA of such oversight. For Part 71, EPA acts as the permitting authority and incurs no burden for oversight.

See the notes on Tables 14 and 15 for explanation of other calculations.

6.3.3 Bottom Line Burden Hours and Costs

Tables 6 through 13 display the activities of the parts 70/71 and parts 51/52 program for flexible permits for sources, permitting authorities, and the federal government. Tables 14, 15, and 16 display the costs associated with each of these categories. Table 17 below summarizes the estimated incremental burden and costs for sources, permitting authorities, and the federal government for implementation of flexible air permitting approaches under the title I NSR Program and the title V Operating Permit Program for the 3 years. Note that the incremental costs are all incremental labor costs associated with the changes in burden hours; none are capital or O&M costs.

Table 17		
Bottom Line Burden and Costs (Cost Savings), 3 Years		
Years 1-3		
Respondent	Total Hours	Total Cost
Sources	(752,159)	(\$61.7 million)
Permitting Authorities	(593,135)	(\$40.8 million)
EPA	14,747	\$659,651

6.4 Changes in the Burden

The activities associated with implementing flexible permits under parts 70/71 and parts 51/52 represent incremental increases and decreases in the burdens associated with conventional permitting. Tables 6 through 13 provide, for sources, permitting authorities, and EPA, detailed burden hour increases and decreases by activity.

6.5 Burden Statement

It is impractical to attempt to delineate burden by respondent and activity due to uncertainties associated with the number of potential respondents, the variation in the circumstances for each respondent, and the varied nature of the activities of the program. Following is the apportioned burden for each respondent. This is derived from the total permitting authority hourly burden divided by the number of permitting authorities, and similarly for sources.

Table 18 Burden Statement Costs (Cost Savings)			
	Number of Respondents	3-Year Total Burden (Cost Savings)	3-Year Burden per Respondent (Cost Savings)
Part 70			
Sources	2,516	(\$7.3 million)	(\$2,900)
Permitting Authorities	112	(\$7 million)	(\$62,400)
Federal	1	\$615,600	\$615,600
Part 71			
Sources	18	(\$51,200)	(\$2,800)
Federal	1	(\$49,300)	(\$49,300)
Parts 50 and 51			
Sources	840	(\$54.4 million)	(\$64,700)
Permitting Authorities	112	(\$33.7 million)	(\$301,100)
Federal	1	\$93,300	\$93,300

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID

Number EPA-HQ-OAR-2004-0087, which is available for online viewing at www.regulations.gov, or in person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2004-0087 and OMB Control Number 2060-0336, 2060-0243, or 2060-0003 in any correspondence.