

**SUPPORTING STATEMENT
FOR THE
PART 70 STATE OPERATING
PERMITS PROGRAM**

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection Request (ICR)

This analysis is titled: "Supporting Statement for the Part 70 State Operating Permits Program." It fulfills the U.S. Environmental Protection Agency's (EPA's) requirements under the Paperwork Reduction Act (PRA) to determine, report and periodically update the regulatory burden associated with the Operating Permits Program, codified in 40 CFR part 70. This report has been assigned EPA tracking number 1587.12. The Office of Management and Budget (OMB) control number for this ICR is 2060-0243.

1(b) Short Characterization/Abstract

This ICR renewal covers state, local and tribal (state) air quality operating permitting programs under 40 CFR part 70 (part 70), as authorized under Title V of the Clean Air Act (CAA or the Act). Part 70 requires states to issue operating permits to all sources that fall under any CAA definition of "major source" and certain other non-major sources that are subject to federal air quality regulations. In general, part 70 requires subject sources to submit initial permit applications and renewal applications every 5 years, conduct monitoring, recordkeeping and reporting as required by the permit and apply for permit modifications, as necessary. States are responsible for processing permit applications (for initial permits, renewals and modifications), for issuing the permits and for conducting all implementation activities related to the permits. The role of the EPA is primarily one of oversight of state permitting authorities and review of state operating permits.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

In implementing title V of the Act and the EPA's part 70 operating permit regulations, state and local permitting authorities must develop programs and submit them to the EPA for approval (section 502(d)). Sources subject to the program must prepare operating permit applications and submit them to the permitting authority within 1 year after approval of the program by the EPA (section 503). Permitting authorities will then issue permits (section 503(c)) and thereafter enforce, revise and renew those permits at no more than 5-year intervals (section 502(b)(5)). Permit applications and proposed permits will be provided to, and are subject to review by, the 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 semiannually 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)). Sections 502 through 504 of title V of the Act are included in Attachment 2.

2(b) Practical Utility/Users of the Data

The burden estimates included in this ICR include the total burden of implementing the part 70 Operating Permits Program for the 3-year period covered by this ICR. To carry out the activities of the program (listed above in section 1(b)), permitting authorities must obtain the required information from sources subject to the program and they must then carry out their functions (e.g., permit issuance, renewal and revision and report review) based on the information.

2(c) Caveats and Considerations

The information included in this ICR is based upon the best data sources available to the Agency at this time. However, inconsistencies in permitting authority reporting techniques, incomplete data sets and certain other data limitations necessitated a certain amount of extrapolation and "best-guess" estimations by permitting authority and EPA 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.

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 part 70 Operating Permits Program, reporting values at the single unit level 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. For instance, a spreadsheet-generated estimation of \$5,456,295 would be presented in the text as \$5.5 (millions) or \$5,456 (thousands). One problem with such an approach is the loss of data richness when the report contains a mixture of very large and very small numbers. Such was the case with this ICR, where source values are consistently in the millions and federal values in the tens of thousands. Consequently, to avoid the loss of information through rounding, 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.

3. NON-DUPLICATION, CONSULTATIONS AND OTHER COLLECTION CRITERIA

3(a) Non-Duplication

While much of the information requested under this ICR existed prior to the creation of the part 70 Operating Permits Program, an operating 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. To the extent that similar information was previously collected (e.g., state permits under state implementation plans), the part 70 program may replace those activities thus avoiding duplication of efforts.

3(b) Public Notice Required Prior to ICR Submission to OMB

On December 14, 2011 (76 FR 77822), the Agency published a notice soliciting comment on an analysis of burden for the part 70 program for the 3-year period of this ICR (i.e., May 1, 2012 to April 30, 2015). A copy of the December 2012 notice is attached as Attachment 4. The EPA received no public comments.

3(c) Consultations

In updating this ICR, the EPA relied on the latest information on the number of sources subject to the program and the number of permits issued which is provided to the EPA Regional Offices, semiannually, by permitting authorities within their jurisdictions. Also, we solicited input from the

National Association of Clean Air Agencies (NACAA), but the organization and its members declined to provide input at this time.

Executive Order 13563, "Improving Regulation and Regulatory Review," (76 FR 3821, January 18, 2011) requires each federal agency to develop a plan to periodically review its existing significant regulations to determine whether they should be modified, streamlined, expanded or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. The EPA published a plan for meeting this order in August 2011. Under the EPA's plan, we have identified the title V permit program as a candidate where we can simplify and clarify implementation requirements for industry, the public and government agencies. At this time it is too early to speculate on the results of the EPA's review, and thus, too early to take such changes into account for the purpose of this ICR renewal.

3(d) Effects of Less Frequent Collection

In general, the information collections included in this ICR are one-time submittals per activity (e.g., permit application, permit issuance and permit revision). Exceptions are deviation reports that must be submitted at least semiannually, the semiannual monitoring data report and the annual compliance certification. These reports are required by sections 503(b)(1) and (2), respectively, of the Act, and the EPA has no leeway to require less frequent reporting. Also see section 5(d) of this supporting statement for more information on information collection schedules for this ICR.

3(e) General Guidelines

Part 70 requires retention of all monitoring data and support information and all permit applications, proposed permits and final permit records for a period of 5 years to match the 5-year general statute of limitations that applies to violations under the Act. (See 40 CFR 70.6(a)(3)(ii)(B).)

3(f) Confidentiality

All information, other than confidential business information, relating to the permitting of sources under this program 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 the EPA. Such information will be stored in the EPA's Confidential Business Information office.

3(g) Sensitive Questions

¹The consideration of sensitive questions (i.e., sexual, religious, personal or other private matters) is not applicable to the part 70 Operating Permits Program. The information gathered for purposes of establishing a part 70 permit for a source do not include personal data on any owner or operator.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/ Standard Industrial Classification (SIC) Codes

Respondents to this information collection come from two groups: permitting authorities and sources required to obtain operating permits.

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 jurisdictions 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.

Under title V, all major stationary sources must obtain an operating permit.⁴ Some non-major sources may also be subject to the program if they are subject to a federal standard such as a New Source Performance Standard (NSPS) pursuant to section 111 of the Act or a National Emissions Standard for Hazardous Air Pollutants (NESHAP) pursuant to section 112 of the Act. Some of these sources have been exempted from the program. Information provided to the EPA by permitting authorities indicates that 14,988 sources are now subject to the program, representing more than 500 SIC codes. Additional information (including SIC codes) for major sources subject to title V may be found by accessing the following web page: <http://www.epa.gov/compliance/resources/publications/data/systems/air/afsmajorsources.pdf>.

4(b) Information Requested

All activities associated with the part 70 Operating Permits Program are considered information collection activities and are reflected in the ICR for part 70. Following are lists of the data items submitted by sources and permitting authorities and program activities performed by permitting authorities and sources.

4(b)(i) Data items, including recordkeeping requirements

Permitting Authorities (submitted to the EPA)

- Applications for initial permits, permit revisions and permit renewals
- Draft/proposed permits, permit revisions or permit renewals
- Final permit
- Annual report of enforcement activities

Sources (submitted to permitting authority)

- Application for initial permits, permit revisions and permit renewals
- Deviation reports that must be filed no less often than semiannually⁵
- Semiannual monitoring report
- Annual compliance certification report

1.

4(b)(ii) Respondent activities

PERMITTING AUTHORITY ACTIVITIES

⁴ All definitions of “major” in the Act.

⁵ Each permitting authority has discretion to set the frequency of these reports as long as no reports are received less frequently than semiannually. For example, some states require deviations that result in excess emissions (e.g., the breakdown of a control device) to be reported within 24 hours, with deviations that do not result in excess emissions (e.g., failure to meet a recordkeeping requirement) to be first reported with the semiannual monitoring report.

- **Program administration:** Responding to inquiries about the program; developing internal and external program guidance; developing rules, forms and other mechanisms to implement the program; planning; attending program training; permit fee collection; providing source training; attending EPA meetings and conferences; providing public education; and other program-related activities.
- **Permit application review,** including discussions with a source concerning the completeness of the permit application, review of applications for completeness and technical approach, and requests for additional information, when necessary.
- **Draft permit preparation,** including contact with the source to clarify the specific requirements that apply, drafting the “statement of basis,” drafting gap-filling monitoring, when necessary, and drafting permit terms and conditions to reflect existing requirements.⁶
- **Comment period notification:** Providing notice to the public, the EPA and affected states of the comment period on a draft permit (for initial permit issuance, permit renewal and significant permit modification). Affected state notification is also required for minor permit modification.
- **Public hearing administration:** Administering a public hearing, when appropriate, for initial permit issuance, permit renewal and significant permit modification.
- **Interaction with the EPA** on a proposed permit, including negotiations, re-drafting and formal EPA objections (including those attributable to public petitions).
- **Response to public comments:** Analyzing public comments and revising the draft permit accordingly, when appropriate.
- **Permit issuance:** Formalizing permits, placing copies of final permits on public websites, entering information into the EPA’s permit website (Air Facility System) and providing copies to sources.
- **General permits administration** (Burden for issuing general permits included with other permit issuance burden).
- **Permit revision:** Modifying permits to reflect changes at the source otherwise prohibited by the permit, including public participation and affected state review, when needed.
- **Permit renewal:** Updating the permit to reflect changes at the source not captured through permit revision (includes reviewing application, drafting changes, public notice, public hearings (when needed), responding to public comments (when needed) and permit issuance).
- **Monitoring and compliance certification:** Reviewing deviation and semiannual monitoring reports and annual compliance certification reports required by part 70, and any enforcement activities related to such reviews.
- **Annual reporting:** Preparing and submitting to the EPA annually a report of the state's enforcement activities.

SOURCE ACTIVITIES

⁶ This involves writing permit terms that reflect the “applicable requirements” that apply to sources. These “applicable requirements” (e.g., NSPS and NESHAP) are not required by part 70; they are required by other federal rules and their burden is counted in the ICRs for those rules. Nevertheless, writing permit terms to reflect those requirements is a part 70 burden. Also, part 70 burden includes imposing additional monitoring through part 70, such as gap-filing monitoring (see 504(c) of the Act and 40 CFR 70.6(a)(3)(i)).

- **Permit application preparation**, including internal meetings, permitting authority discussions, management and legal department involvement, responsible official certification and contractor services.
- **Draft permit development:** Interaction with the permitting authority on draft permit development.
- **Gap-filling monitoring development:** Development of “periodic” monitoring or reporting, where necessary.
- **Public hearing participation**
- **Operate gap-filling periodic monitoring:** Operation of monitoring equipment and the taking and keeping of records, where necessary.
- **Monitoring reports:** Preparing deviation and semiannual monitoring data reports and annual compliance certifications, including data analysis, responsible official certification and report submission.
- **Permit revisions:** Preparing applications for revisions.
- **Permit renewal:** Preparing permit renewal applications.
- **Other activities** associated with permit renewal, including discussions with permitting authority and public hearing participation.

5. THE INFORMATION COLLECTED – AGENCY ACTIVITIES, COLLECTION METHODOLOGY AND INFORMATION MANAGEMENT

5(a) Agency Activities

The EPA’s activities under the program are as follows:

- **Review proposed permits** and permit revisions to determine if they provide for compliance with all applicable requirements.
- **Review monitoring** provisions of proposed permits or permit revisions to see if they contain applicable requirements or to add periodic monitoring if needed.
- **Consult** with the permitting authority on any problems detected in the proposed permit or permit revision including interaction related to fact finding on permit petitions.
- **Program oversight including review of program changes**, review annual reports of enforcement activities, program evaluation, issuing notices of deficiency, development of formal EPA responses to public petitions and applying sanctions to states, as appropriate.

5(b) Collection Methodology and Management

The EPA will receive proposed permits or permit revisions in hard copy or electronically, depending on permitting authority capability. Each EPA Regional Office has determined with its permitting authorities the most efficient system to exchange information. Each Regional Office maintains files of permit information only to the extent that the office determines the need for file retention. This will vary depending on factors such as the source (e.g., large, complicated sources vs. small), the type of permit (general vs. full), the number of actions occurring at a source or the record of the source with respect to compliance. There is no need for the EPA to maintain complete files of permit actions for public access since these are maintained by permitting authorities.

5(c) Small Entity Flexibility

Title V provides few ways to mitigate the effects of operating permit regulations on small entities. Under section 502(a) of the Act, the Agency has exempted or deferred applicability of title V for those non-major source categories for which compliance with title V will be impractical, infeasible or unnecessarily burdensome. The EPA decides whether to exercise its discretion to exempt area sources on a case-by-case basis at the time each NSPS or NESHAP is promulgated, which is an on-going process. For example, see the final NESHAP for area source industrial, commercial and institutional boilers (40 CFR part 63, subpart JJJJJ, 76 FR 15554, March 21, 2011), where the EPA exempted a large number of area sources from title V permitting requirements. The Agency has not analyzed how many of these non-major sources will be small businesses, but believes that a large percentage may fall under that definition.

For industries with a large number of identical sources (e.g., bulk gasoline distribution terminals and gravel mining operations) general permits may be used to meet the requirements of title V (instead of a source-specific permit). General permits can reduce the burden of the program on small businesses.

Even though the part 70 Operating Permits Program is not anticipated to have an adverse impact on a significant number of small businesses, measures are in place to assist in those incidental exceptions. Implementation of small business stationary source technical and environmental compliance assistance programs at the federal and state levels, as called for in section 507 of the Act, can reduce the reporting burden of small entities that are subject to part 70 permitting. These programs may significantly alleviate the economic burden on small sources by establishing: (1) programs to assist small businesses with determining what CAA requirements apply to their sources and when they apply, and (2) guidance on alternative control technology and pollution prevention for small businesses.

5(d) Collection Schedule

Items identified in section 4(b)(i) are listed below with their schedule for submission.

Permitting Authorities (submitted to the EPA):

- Application for permits, permit revision and permit renewal should be submitted to the EPA with the proposed permit or permit revision.
- Draft/proposed permits, permit revisions or permit renewals should be submitted when the state wants to commence the EPA review period of the proposed permit or permit revision.
- The final permit should be submitted to the EPA soon after it is issued, but there is no deadline in part 70 for this submission.
- The annual report of enforcement activities is submitted to the EPA annually, but part 70 does not specify a date.
- Responding to program evaluation questionnaires.

Sources (submitted to permitting authority):

- New permit applications are due within 1 year after a source becomes subject to the program.
- Permit revision applications are submitted by a source when it wishes to make a change to its permit. There is no schedule for these submissions in that they are at the discretion of the source.
- Permit renewal applications are due at least 6 months prior to expiration of the permit.
- The semiannual periodic monitoring report is due to be submitted to the permitting authority twice a year on dates specified by the permitting authority.

- The annual compliance certification report is due annually on a date specified by the permitting authority.
- Deviation reports (frequency is defined by permitting authority but at least semiannually).

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden

The estimated burden associated with the each of the activities listed above in section 4(b)(ii) for sources and permitting authorities is presented below in Tables 1 and 2, respectively. We derived the estimates in Tables 1 and 2 based on previous consultations with fewer than nine respondents from the regulated community on the burdens and costs of the permit programs; data collected by the EPA from permitting authorities on the numbers of permits issued, renewed and modified in the course of program administration; and our analysis of data submitted within the context of state and local permitting program evaluations. The assumptions in Tables 1 and 2 are unchanged from the 2007 ICR renewal. In addition, there are several new activities or changes in activity levels compared to the 2007 ICR renewal that are related to the Flexible Air Permits and Greenhouse Gas (GHG) Tailoring rules but, for the sake of clarity, we discuss those later in this document.

Table 1. Average Source Burden by Activity

Activity	Burden per Source or Permit (Hours)
Prepare Application	300
Draft Permits Interaction	40
Gap-filling Monitoring Development (50% of permits)	40
Public Hearing Participation (2% of permits)	10
Operate Gap-filling Monitoring (50% of permits)	200
Prepare Monitoring Reports	80
Permits Revisions	
Significant Permit Modifications (10% of Permits)	80
Minor Permit Modifications (50% of Permits)	40
Administrative Amendments (50% of Permits)	8
Re-application for General Permit	2
Permit Renewal for Single-source Permit	200
Other Activities	20

Table 2. Average Permitting Authority Burden by Activity

Activity	Burden Per Permit or Program (Hours)
Program Administration	3,500 / program
Permit Application Review	100 / permit
Draft Permit Preparation	150 / permit
Comment Period Notification	10 / permit
Hold Public Hearings (2% of permits)	100 / hearing
Interaction with the EPA	20 / permit
Analyze Public Comments and Prepare Final Permit (2% of permits)	40 / permit
Permit Issuance	8 / permit
General Permits	80 / program
Permit Revision	
Significant Permit Modification (10% of Permits)	90/ permit
Minor Permit Modification (50% of Permits)	30 / permit
Administrative Amendment (50% of Permits)	5 / permit
Permits Renewal	90 / permit
Renew General Permits	10 / permit
Review Monitoring and Compliance Certification Reports (total 3 reports/permit/year)	5 / report
Annual Enforcement Activity Reporting	40 / program

6(b) Estimating Respondent Costs

6(b)(i) Estimating Labor Costs

In order to improve the accuracy of burden estimates, this ICR renewal updates the respondent labor rates to values in 2011 dollars based on recent publications by the Bureau of Labor Statistics (BLS). In recent ICR renewals, we updated the labor rate for sources using the BLS Employment Cost Index (ECI) applied to the rate used in the previous renewal. However, we could no longer reproduce the methodology used to derive the source labor rate in the original ICR for the program, and the value used in the most recent renewal appeared to be unrealistically low. For permitting authorities, in recent ICR renewals we used the same labor rate that we calculated for the EPA based on federal wage tables. For this ICR renewal we have changed the methodology for permitting authorities, as discussed further below.

The labor rate used to calculate sources' labor cost for this ICR renewal is \$63/hr. This source labor rate was calculated on the assumption that, while most of the labor for sources will be performed by Environmental Engineers, approximately 50 percent of the labor hours expended for two of the activities listed above in Table 1 will be carried out by Environmental Engineering Technicians. Specifically, we assumed that Environmental Engineering Technicians will expend half of the labor hours to "Operate Gap-filling Monitoring" and "Prepare Monitoring Reports."

To derive this composite labor rate, we obtained the mean hourly wage for Environmental Engineers of \$39.98 from the most recent BLS Occupational Employment Statistics, which gives wages as of May 2010.⁷ Similarly, we obtained the May 2010 mean hourly wage for Environmental Engineering Technicians of \$22.51.⁸ In each case, we escalated the hourly wages to December 2011 using the BLS ECI for private industry workers, resulting in hourly wages of \$40.98 for Environmental Engineers and hourly wages of \$23.07 for Environmental Engineering Technicians.⁹ An example escalation calculation for Environmental Engineers is as follows:

$$Wage_{Dec\ 2011} = Wage_{May\ 2010} \times \frac{ECI_{Dec\ 2011}}{ECI_{June\ 2010}}$$

$$\$39.98 \times \frac{114.7}{111.9} = \$40.98$$

⁷ Environmental Engineer hourly wages obtained from "Occupational Employment Statistics, Occupational Employment and Wages, May, 2010, 17-2081 Environmental Engineers," U.S. Dept. of Commerce, BLS. (<http://www.bls.gov/oes/current/oes172081.htm> accessed March 2012)

⁸ Environmental Engineering Technician hourly wages obtained from "Occupational Employment Statistics, Occupational Employment and Wages, May, 2010, 17-3025 Environmental Engineering Technicians," U.S. Dept. of Commerce, BLS. (<http://www.bls.gov/oes/current/oes173025.htm> accessed March 2012)

⁹ Employment Cost Indexes for sources obtained from "Employment Cost Index Historical Listing, Current-dollar, March 2001–December 2011 (December 2005=100), Table 2. Employment Cost Index for wages and salaries, by occupational group and industry (Seasonally adjusted)," U.S. Dept. of Commerce, BLS, pg. 21 Private Industry Workers - All Workers. (<http://www.bls.gov/web/eci/echistrynaics.pdf> accessed March 2012)

We then calculated a weighted average hourly wage for sources using the total hours projected for sources over the 3 years of this ICR, as shown later in this document in Table 6, apportioned between Environmental Engineers and Environmental Engineering Technicians as discussed above. This calculation results in a weighted average hourly wage of \$34.97. Finally, to determine the total labor rate, we assumed an 80 percent factor to account for benefits and overhead, which we believe to be representative. The resultant rate was rounded to the nearest dollar, yielding \$63/hr in 2011 dollars. This labor rate was applied to all source burden hours to calculate the sources' labor costs.

The updated labor rate used for permitting authority respondents in this ICR renewal of \$54/hr was determined similarly. For permitting authorities, we assumed that permit engineers are all Environmental Engineers, but experience tells us that these positions are typically filled by younger engineers, early in their careers. For this reason, we selected the 25th percentile hourly wage of \$29.57 for Environmental Engineers from the same recent BLS Occupational Employment Statistics publication that we used for sources. We escalated this May 2010 hourly wage to December 2011 as discussed above using the ECI for state and local government workers, resulting in hourly wages of \$29.96.¹⁰ As above, we assumed an 80 percent factor to account for benefits and overhead and rounded the resultant rate to the nearest dollar, yielding \$54/hr in 2011 dollars.

6(b)(ii) Estimating Capital and Operating and Maintenance (O&M) Costs

The EPA believes that sources will incur little or no capital cost to comply with part 70 requirements. Even if a part 70 permit applicant is a brand new company and the prospective source is a "greenfield" source (the EPA estimates less than 1 percent of sources fit that description) most, and perhaps all, of the equipment needed to prepare permit applications (for example, the computers and basic software) will be part of the source's business operation inventory. Monitoring can require capital expenditures for new sources or new operations at existing sources, but these expenditures generally are accounted for in the ICRs for the applicable requirements under which they are required (e.g., NSPS or NESHAP). The one exception to this is the part 70 requirement to develop and operated gap-filling monitoring in certain, limited situations where the applicable requirements do not require monitoring. However, such gap-filling monitoring typically consists of periodically monitoring and recording operating conditions or other parameters that the source already monitors for operational purposes. Thus, we believe that capital costs are negligible for sources.

Permitting authorities similarly incur negligible capital costs. As with sources, we believe that most, and perhaps all, of the computers and other office equipment needed to administer the part 70 program will be part of the permitting authority's office inventory. In any case, all the permitting authorities operate mature part 70 programs, so there is no need for initial equipment purchases to outfit a new program office.

Since the purchase of capital equipment is believed to be an insignificant factor under part 70, the EPA assumes the operation, maintenance or services for same are negligible. Further, once a permit is issued, there is minimal O&M cost associated with it. It remains unaltered unless it must be revised, and such revisions are accounted for as burden hours in section 6(a) above. As noted previously, part 70 requires sources to submit deviation reports, semiannual reports of monitoring and annual compliance

¹⁰ Employment Cost Indexes for permitting authorities obtained from "Employment Cost Index Historical Listing, Current-dollar, March 2001–December 2011 (December 2005=100), Table 2. Employment Cost Index for wages and salaries, by occupational group and industry (Seasonally adjusted)," U.S. Dept. of Commerce, BLS, pg. 33 State and Local Government Workers - Public Administration. (<http://www.bls.gov/web/eci/echistrynaics.pdf> accessed March 2012)

certification reports, but these reports generally are coordinated with similar reports that are required under the source's applicable requirements. The O&M costs (e.g., photocopying and postage) for the reports required under the applicable requirements are included in the ICRs for those rules, and we believe that it would constitute double counting to include such costs here as well. In addition, electronic reporting by sources is increasingly prevalent, with no associated O&M costs. Accordingly, we include no O&M costs in this ICR for sources. For parallel reasons, we believe that O&M costs for permitting authorities will be minimal, and none are included in this ICR.

6(b)(iii) Capital/Start-up vs. O&M Costs

Capital/start-up and O&M costs are non-labor related costs. One-time capital/start-up costs are incurred with the purchase of durable goods needed to provide information. According to the PRA, capital/start-up cost should include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment. As a practical matter, most these costs are not typical of the costs associated with preparing a part 70 permit application. As discussed in the previous section, we believe that the gap-filling monitoring required of some sources under part 70 will not involve capital spending. For the same reason, the O&M costs associated with start-up capital equipment are zero for this ICR. In addition, we believe that overlapping reporting accounted for in other ICRs and electronic reporting result in zero O&M costs for this ICR.

6(b)(iv) Annualizing Capital Costs

Typically, annualized capital cost would be derived from a discounted net present value of the stream of capital costs that would occur over the life of the permit, or the ICR, whichever is shorter. However, in the case of the part 70 Operating Permits Program, there are only labor costs for preparing and processing permit applications, conducting gap-filling monitoring, and preparing and reviewing reports. Labor costs are expensed when incurred and not amortized. Therefore, the annualized capital costs for this program are zero.

6(c) Estimating Agency Burden and Cost

The estimated burden associated with the each of the activities listed above in section 5(a) for the EPA is presented below in Table 3. These activities remain unchanged from the 2007 ICR renewal. While there are several new activities or changes in activity levels compared to the 2007 ICR renewal that are related to the Flexible Air Permits and GHG Tailoring rules, for the sake of clarity we discuss those later in this document.

Table 3. Average EPA Burden by Activity

Activity	Burden Per Permit or Program (Hours)
Review Proposed Permits*	
New Permits	20 / permit
Significant Permit Modifications	8 / revision
Minor Permit Modifications	1 / revision
Consultation	
New Permits (25%)	8 / permit
Significant Permit Modifications (25%)	8 / permit
Minor Permit Modifications (25%)	1 / permit
Program Oversight	50 / program / year
Review the Annual Enforcement Activity Reports	10 / report

* Includes the burden for review of periodic monitoring, when required

The estimated EPA labor rate for this ICR is \$52/hr. The rate reflects the assumption that the EPA personnel overseeing the part 70 Operating Permits Program are classified as Grade 12, Step 5. The corresponding salary is loaded with benefits at the standard rate of 60 percent.¹¹

The baseline burden and costs for EPA activities are presented below in Table 4. The table lists the burden categories, the number of estimated permits or programs involved, and the expected cost for each, based on the burden estimations from Table 3. As seen in the table, the baseline annual average burden to the EPA is estimated at 33,864 hours at a cost of \$1,760,928.

Table 4 closely follows the analysis of the 2007 ICR renewal without accounting for changes due to the Flexible Air Permits or GHG Tailoring rules. We refer to this as the “baseline” analysis because it allows the reader to see the effects of this ICR update relative to the 2007 ICR renewal baseline. We later show the changes due to the Flexible Air Permits and GHG Tailoring rules relative to the baseline in the section 6(e), the “bottom line” section, where we show the totals taking everything into account.

¹¹ Federal Labor Cost obtained from U.S. Office of Personnel Management 2012 General Schedule Table 2012-GS. Hourly labor rate assumed is GS-12, Step 5 (Technical Labor).

Table 4. Baseline Burden and Cost of EPA Activities

Activity	Burden Hours	Affected Permits or Programs	Total Burden (Hours)	Total Cost (2012\$)
Review Permits and Revisions				
New Permits	20	276	5,520	\$287,040
Renewals	20	558	11,160	\$580,320
Significant Permit Modifications	8			
Year 1		1,246	9,968	\$518,336
Year 2		1,283	10,264	\$533,728
Year 3		<u>1,320</u>	<u>10,560</u>	<u>\$549,120</u>
		3,849	30,792	\$1,601,184
Minor Permit Modifications	1			
Year 1		6,231	6,231	\$324,012
Year 2		6,415	6,415	\$333,580
Year 3		<u>6,599</u>	<u>6,599</u>	<u>\$343,148</u>
		19,245	19,245	\$657,592
Consult with PA				
New Permits	8	276	2,208	\$114,816
Significant Permit Modifications	8			
Year 1		311	2,488	\$129,376
Year 2		321	2,568	\$133,536
Year 3		<u>330</u>	<u>2,640</u>	<u>\$137,280</u>
		962	7,696	\$400,192
Minor Permit Modifications	1			
Year 1		1,558	1,558	\$81,016
Year 2		1,603	1,603	\$83,356
Year 3		<u>1,650</u>	<u>1,650</u>	<u>\$85,800</u>
		4,811	4,811	\$250,172
Program Oversight (per program, per year)	50	112	16,800	\$873,600
Review the Annual Report (per program, per year)	10	112	3,360	\$174,720
Totals	3-		101,592	\$5,282,784
year	Annual		33,864	\$1,760,928

6(d) Estimating the Respondent Universe and Total Burden and Costs

There are 112 permitting authorities acting within the United States for the purposes of the part 70 Operating Permits Program. Forty-nine states operate as permitting authorities, with California employing 34 local air quality management organizations in lieu of a statewide permitting authority. Puerto Rico, the Virgin Islands and Washington D.C. all have operating permits programs, and there are

26 county or regional permitting authorities within states that operate in a manner similar to that of California.

As of July 2011, the Agency identified 14,988 sources subject to permitting under part 70, 14,650 of which have already received permits, representing a backlog of 338 sources. We consider sources who have not yet received initial permits to be in the backlog if the deadline for the permitting authority to act on the application has passed and a permit has not been issued. Also, between May 2011 and April 2012, the EPA estimates that 100 new sources will become subject to permitting, and that an additional 185 permits will be issued (i.e., comprised of 100 new sources and 85 backlogged sources). Thus, at the beginning of the period covered by this analysis, the EPA estimates there will be a source population of 15,088 sources, 14,835 issued permits and a backlog of 253 permits. In addition, during the 3 years of this ICR we assume that the backlog of initial permits will be reduced in equal amount each year, eliminating the backlog by the end of the period of analysis. Also, 300 sources will become newly subject to permitting during the period of the analysis as a normal consequence of economic growth¹² and 552 sources will become newly subject because they trigger permitting requirements for GHG pollutants under the GHG Tailoring rule.¹³ Table 5 summarizes the number of permitting authorities and the number of permits to be issued during the period of this ICR renewal.

¹² The 2007 ICR renewal assumed there would be 50 new sources per year, while data collected by the EPA from permitting authorities suggests 100 sources per year is a more accurate assumption.

¹³ This number is based on assumptions made in the RIA and ICR for the 2010 GHG Tailoring rule for sources that would become subject to part 70 solely based on Step 2 of the Tailoring rule.

Table 5. Identification of Affected Entities and Permit Issuance Schedule

Date (ICR Interval)	Source Population	New Sources	Permitting Backlog	Additional Permits issued	Total Permit Issued
By June 2011 (Basis of data)	14,988		338 sources unpermitted (backlogged)		
Between July 2011 and May 2012 – Period leading to start of ICR period	15,088	100	85 issued	185	14,835
By May 2013 – end of ICR year 1	15,372	284	84 issued	368	15,203
By May 2014 – end of ICR year 2	15,656	284	85 issued	369	15,572
By May 2015 – end of ICR year 3	15,940	284	84 issued	368	15,940
TOTALS for ICR period (ICR years 1-3 only)	NA	852 new sources permitted	253 backlogged sources permitted	1,105 total new permits	NA

An example of regulatory relief incorporated into the operating permits program is the general permit, which allows large numbers of homogenous major sources of pollution to receive the same permit. This program has been successful in allowing approximately 16 percent of all part 70 sources (more than 2,300 sources) a cost-effective alternative to single-source permitting. The EPA estimates that by April 2012 (when the period of this ICR begins), the total population of part 70 sources will have grown to 15,088, of which 14,835 will have received permits, and that 16 percent of these permitted sources (2,374 sources) will have received general permits. Because general permits are typically relatively easy to issue, the Agency assumes that all existing sources eligible for general permits will have received them by May 2012 and that none of the 253 backlogged sources will be issued general permits during the 3 years of this ICR. We further assume that none of the estimated 852 newly subject sources will receive general permits during the period of this ICR.

Data collected by the EPA suggests a renewal backlog of 3,335 permits as of July 2011. These permits will need to be renewed during the 3-year ICR period in order to eliminate the backlog. Additional permits will become subject to renewal during the ICR period because their initial or previous renewal permits are expiring. Thus, the total number of permits projected to be renewed during the ICR period is 13,295. The EPA assumes that the total number of permits to be renewed in each year of the ICR will be one third of the backlog plus whatever permits would normally come up for review because their permits are at the end of their 5-year term, or 4,431 the first year, 4,432 the second year, and 4,432 the third year. This analysis also assumes that 84 percent of renewal permits will be issued as single-source permits and 16 percent as general permits.

Table 6 lists the burden categories for respondent sources, the number of estimated occurrences for each item and the expected cost for each, based on the burden estimations from Table 1. Table 7 lists the burden categories for respondent permitting authorities, the expected number of permits or programs involved and the expected cost for each, based on the burden estimations from Table 2.

Tables 6 and 7 closely follow the analysis of the 2007 ICR renewal without accounting for changes due to the Flexible Air Permits or GHG Tailoring rules. As noted previously, we refer to this as the “baseline” analysis because it allows the reader to see the effects of this ICR update relative to the 2007 ICR renewal baseline. We later show the changes due to the Flexible Air Permits and GHG Tailoring rules relative to the baseline in section 6(e), the “bottom line” section, where we show the totals taking everything into account.

Table 6. Baseline Burden and Cost of Source Activities

Activity	Burden Hours per Permit	Affected Permits	Total Burden (Hours)	Total Cost (2011\$)
Prepare Application	300	852	255,600	\$16,102,800
Draft Permit	40	1,105	44,200	\$2,784,600
Gap Filling Monitoring Development	40	553	22,120	\$1,393,560
Public Hearing Participation	10	22	220	\$13,860
Operate Gap Filling Monitoring	200			
Year 1		7,418	1,483,600	\$93,466,800
Year 2		7,602	1,520,400	\$95,785,200
Year 3		7,786	<u>1,557,200</u>	<u>\$98,103,600</u>
			4,561,200	\$287,355,600
Prepare Monitoring Reports	80			
Year 1		14,835	1,186,800	\$74,768,400
Year 2		15,204	1,216,320	\$76,628,160
Year 3		15,572	<u>1,245,760</u>	<u>\$78,482,880</u>
			3,648,880	\$229,879,440
Permit Revisions				
Significant Permit Modifications	80			
Year 1		1,246	99,680	\$6,279,840
Year 2		1,283	102,640	\$6,466,320
Year 3		<u>1,320</u>	<u>105,600</u>	<u>\$6,652,800</u>
		3,849	307,920	\$19,398,960
Minor Permit Modifications	40			
Year 1		6,231	249,240	\$15,702,120
Year 2		6,415	256,600	\$16,165,800
Year 3		<u>6,599</u>	<u>263,960</u>	<u>\$16,629,480</u>
		19,245	769,800	\$48,497,400
Administrative Amendments	8			
Year 1		6,231	49,848	\$3,140,424
Year 2		6,415	51,320	\$3,233,160
Year 3		<u>6,599</u>	<u>52,792</u>	<u>\$3,325,896</u>
		19,245	153,960	\$9,699,480
General Permit Renewal	2	2,127	4,254	\$268,002
Permit Renewal	200	11,168	2,233,600	\$140,716,800
Other Activities	20	11,168	223,360	\$14,071,680
Totals	3-		12,225,114	\$770,182,182
year	Annual		4,075,038	\$256,727,394

Table 7. Baseline Burden and Cost of Permitting Authority Activities

Activity	Burden Hours	Affected Permits or Programs	Total Burden (Hours)	Total Cost (2011\$)
Program Administration (per program, per year)	3,500	112	1,176,000	\$63,504,000
Permit Application Review	100	852	85,200	\$4,600,800
Draft Permit Preparation	150	1,105	165,750	\$8,950,500
Comment Period Notification	10	1,105	11,050	\$596,700
Public Hearing	100	22	2,200	\$118,800
Interaction with the EPA	20	1,105	22,100	\$1,193,400
Analyzing Public Comments	40	22	880	\$47,520
Permit Issuance	8	1,105	8,840	\$477,360
General Permits Administration (per program, per year)	80	112	26,880	\$1,451,520
Permit Revisions				
Significant Permit Modifications	90			
Year 1		1,246	112,140	\$6,055,560
Year 2		1,283	115,470	\$6,235,380
Year 3		<u>1,320</u>	<u>118,800</u>	<u>\$6,415,200</u>
		3,849	346,410	\$18,706,140
Minor Permit Modifications	30			
Year 1		6,231	186,930	\$10,094,220
Year 2		6,415	192,450	\$10,392,300
Year 3		<u>6,599</u>	<u>197,970</u>	<u>\$10,690,380</u>
		19,245	577,350	\$31,176,900
Administrative Amendments	5			
Year 1		6,231	31,155	\$1,682,370
Year 2		6,415	32,075	\$1,732,050
Year 3		<u>6,599</u>	<u>32,995</u>	<u>\$1,781,730</u>
		19,245	96,225	\$5,196,150
Permit Renewals	90	11,168	1,005,120	\$54,276,480
Review General Permits	10	2,127	21,270	\$1,148,580
Review Monitoring and Compliance Certification Reports	15			
Year 1		14,835	222,525	\$12,016,350
Year 2		15,204	228,060	\$12,315,240
Year 3		<u>15,572</u>	<u>233,580</u>	<u>\$12,613,320</u>
		45,611	684,165	\$36,944,910
Annual Enforcement Activity Reporting (per program, per year)	40	112	13,440	\$725,760
Totals	3-		4,242,880	\$229,115,520
year	Annual		1,414,293	\$76,371,840

6(e) Bottom Line Burden Hours and Cost Tables

Since the approval of the 2007 ICR renewal, the EPA has promulgated two sets of rules that have affected the burden and cost of the part 70 Operating Permits Program, the Flexible Air Permits (FAP) rule and the GHG Tailoring rules. The Office of Management and Budget (OMB) approved ICR change requests for both of these rules, EPA tracking numbers 1587.10 and 1587.11, respectively; however, this is the first ICR renewal that addresses the two provisions at the same time and updates them to reflect current implementation experience.

The FAP rule, promulgated during the term of the last ICR renewal, revised part 70 to provide for permits that allow for upfront approval for changes to processes, equipment, raw materials and end products at a facility, in such a way as to avoid formal submittal and processing of significant permit modifications (SPM) and minor permit modifications (MPM) during the term of the permit. The FAP rule did not increase the number of sources subject to title V permitting, and it only applies to a relatively small number of new and existing sources that would need to get a permit anyway. While there is typically an increased burden to put the flexible provisions in the permit, once added, they allow the source to avoid permit modifications on a recurring, open-ended basis, resulting in an overall decrease in burden over the long term.

The EPA estimated in the FAP rule ICR that 5 percent of the total number of existing sources subject to part 70 would obtain a comprehensive flexible permit (a “Tier 1” permit) and that an additional 10 percent of all existing sources and new sources subject to part 70 would seek simpler flexible permits (“Tier 2” permits). The FAP rule ICR assumed all existing part 70 sources would be issued Tier 1 and 2 permits during the period of that ICR, and that there would be no new Tier 1 permits needed after that period ended. Thus, for this ICR period, we assume that only new Tier 2 permits will be issued, and they will comprise 10 percent of new permits issued during the period.

Table 8 lists the burden categories for respondent sources, the number of affected permits for each activity, and the expected incremental burden hours and costs for each, based on the burden estimations made in the previous OMB-approved ICR change worksheet for the FAP rule. The table shows incremental burden increases for issuing new Tier 2 permits and burden decreases for avoided permit modifications for all Tier 1 and 2 permits. Tables 9 and 10 present the same analysis for permitting authorities and the EPA, respectively. Note that our assumptions for the mix of activities expected to occur under the FAP rule have changed compared to the OMB-approved change worksheet due to the normal evolution of the program (i.e., by May 2012, the beginning of this ICR renewal period, all eligible existing permits have been changed to add Tier 1 and 2 flexibility and only new Tier 2 permits will need to add such flexibility during the term of the ICR renewal). Also, the number of affected permits has changed because our assumptions concerning the number of existing permits over the period (discussed previously) have changed since the FAP rule ICR.

Table 8. Three-Year and Annual Incremental Burden of the FAP Rule for Sources

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Tier 1 – 5 MPM Avoided per year	-40	797	-478,200	-\$30,126,600
Tier 1 – 1 SPM Avoided every 5 years	-80	797	-38,240	-\$2,409,120
Tier 2 – New Permit	60	111	6,660	\$419,580
Tier 2 – 1 MPM Avoided per year	-40	1,594	-191,280	-\$12,050,640
Total 3-year			-701,060	-\$44,166,780
Annual			-233,687	-\$14,722,260

Table 9. Three-Year and Annual Incremental Burden of the FAP Rule for Permitting Authorities

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Tier 1 – 5 MPM Avoided per year	-30	797	-358,650	-\$19,367,100
Tier 1 – 1 SPM Avoided every 5 years	-90	797	-43,020	-\$2,323,080
Tier 2 – New Permit	45	111	4,995	\$269,730
Tier 2 – 1 MPM Avoided per year	-30	1,594	-143,460	-\$7,746,840
Total 3-year			-540,135	-\$29,167,290
Annual			-180,045	-\$9,722,430

Table 10. Three-Year and Annual Incremental Burden of the FAP Rule for the EPA

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Tier 1 – 5 MPM Avoided per year	-1	797	-11,955	-\$621,660
Tier 1 – 1 SPM Avoided every 5 years	-8	797	-3,824	-\$198,848
Tier 2 – New Permit	8	111	888	\$46,176
Tier 2 – 1 MPM Avoided per year	-1	1,594	-4,782	-\$248,664
Total 3-year			-19,673	-\$1,022,996
Annual			-6,558	-\$340,999

The GHG Tailoring rules, also promulgated during the term of the last ICR renewal, “tailor” the requirements of the Act to limit the number of facilities that would otherwise be required to obtain

title V permits solely due to their emissions of GHGs. As a result of actions to regulate GHGs under other CAA programs, GHGs are now required to be addressed under the title V program. The GHG Tailoring rules are necessary because the statutory definitions that have been used for other air pollutants to determine which sources are “major sources” subject to title V permitting, if implemented immediately for GHGs, would bring so many sources into the programs as to overwhelm the capabilities of permitting authorities to issue permits. Accordingly, the EPA adopted the GHG Tailoring rules to phase in coverage of GHG-emitting sources under the title V program. The 2010 GHG Tailoring rule included Steps 1 and 2 of the phase-in approach (Step 2 will be in effect at the beginning of the period covered by this ICR renewal). Because the 2012 Step 3 GHG Tailoring rule merely extended the GHG applicability thresholds set under Step 2 until April 30, 2016, the assumption of 552 sources expected to need new title V permits due to Step 2 will continue to apply for the entire period covered by this ICR renewal. Also, the EPA assumes that all of these sources will be issued single-source permits (i.e., not general permits).

The baseline burden associated with permitting sources subject to part 70 is shown above in Tables 4, 6 and 7 for the EPA, sources and permitting authorities, respectively. The burden for each activity in these tables is based on the assumptions of the 2007 ICR renewal. The 552 additional GHG sources are included in those tables as well. The baseline burden tables, however, do not include the incremental burden for addressing GHG emissions in permits that apply to both GHG and non-GHG subject sources. The incremental GHG burden is shown below in Tables 11, 12 and 13 for sources, permitting authorities and the EPA. Note that the EPA assumes the burden for issuing new GHG permits is the same as non-GHG permits, so there is no incremental burden for new permit issuance included in the tables below (it is included in Tables 4, 6 and 7 instead).

Specifically, included in the tables below is the incremental burden for sources and permitting authorities alike to address GHG in all new non-GHG permits (including backlog sources), the burden of permit modifications solely related to GHG (based on the number of NSR actions involving GHG in the NSR program ICR), the burden of addressing GHG in all existing non-GHG permits when they undergo minor permit or significant modification procedures and the burden of addressing GHG in 80 percent of all permit renewals. For the EPA, the additional incremental burden is for reviewing and consulting with permitting authorities on minor and significant modifications that occur solely due to GHG.¹⁴

Table 11 lists the burden categories for respondent sources, the number of affected permits for each activity and the expected incremental burden hours and costs for each, based on the burden estimations made in the previous OMB-approved ICR change worksheet for the 2010 GHG Tailoring rule.¹⁵ Compared to the change worksheet for this rule, these tables have been updated to reflect the number of affected permits and the mix of activities expected to occur due to the maturity of the program. Tables 12 and 13 present the same analysis for permitting authorities and the EPA, respectively.

¹⁴ Note that we did not include administrative permit modifications because there is no requirement for EPA review and they do not involve substantive changes.

¹⁵ No ICR change worksheet was submitted for the 2012 Step 3 GHG Tailoring rule because it did not change the permitting burdens estimated for the 2010 GHG Tailoring rule.

Table 11. Three-Year and Annual Incremental Burden of the GHG Tailoring Rules for Sources

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Prepare Application (add GHG to non-GHG permit)	34	553	18,802	\$1,184,526
Modification due to GHG	43	2,745	118,035	\$7,436,205
Modification to address GHG in non-GHG permit	4	23,094	92,376	\$5,819,688
Address GHG at Renewal	20	8,934	178,680	\$11,256,840
Total year	3-		407,893	\$25,697,259
	Annual		135,964	\$8,565,753

Table 12. Three-Year and Annual Incremental Burden of the GHG Tailoring Rules for Permitting Authorities

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Prepare Application (add GHG to non-GHG permit)	43	553	23,779	\$1,284,066
Modification due to GHG	40	2,745	109,800	\$5,929,200
Modification to address GHG in non-GHG permit	4	23,094	92,376	\$4,988,304
Address GHG at Renewal	9	8,934	80,410	\$4,342,118
Total year	3-		306,365	\$16,543,688
	Annual		102,122	\$5,514,563

Table 13. Three-Year and Annual Incremental Burden of the GHG Tailoring Rules for the EPA

Activity	Burden Hours per Permit	Affected Permits	Total 3-Year Burden (Hours)	Total 3-Year Cost (2011\$)
Review Modification due to GHG	8	2,745	21,960	\$1,141,920
Consult on Modification due to GHG	8	686	5,488	\$285,376
Total year	3-		27,448	\$1,427,296

Annual			9,149	\$475,765
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6(e)(i) Respondent Tally

Tables 1 and 2 above display the activities of the part 70 program carried out by sources and permitting authorities, respectively. Section 6(b)(i) explains the derivation of the hourly cost of labor for sources and permitting authorities. Tables 6 and 7 summarize the expected baseline burden and costs (in 2011 dollars) over the 3-year period of this ICR renewal for sources and permitting authorities. The baseline burden and costs, which are based on the methodology of the previous ICR renewal, do not account for changes to the approved burden from the FAP rule and the GHG Tailoring rules. The incremental burden and costs attributable to the FAP rule are shown in Tables 8 and 9 for sources and permitting authorities, respectively, and that attributable to the GHG Tailoring rules is shown in Tables 11 and 12. In table 14 we show the calculation of the average annual burden for sources and permitting authorities, and in Table 15 the calculation of the average annual cost, adjusted for the FAP and GHG Tailoring rules.

Table 14. Calculation of Bottom Line Average Annual Respondent Burden Hours

Respondent	Baseline	Flexible Air Permit Rule	GHG Tailoring Rules	Total
Sources	4,075,038	-233,687	135,964	3,977,316
Permitting Authorities	1,414,293	-180,045	102,122	1,336,370
Total	5,489,331	-413,732	238,086	5,313,686

Table 15. Calculation of Bottom Line Average Annual Respondent Cost (2011\$)

Respondent	Baseline	Flexible Air Permit Rule	GHG Tailoring Rules	Total
Sources	\$256,727,394	-\$14,722,260	\$8,565,753	\$250,570,887
Permitting Authorities	\$76,371,840	-\$9,722,430	\$5,514,563	\$72,163,973
Total	\$333,099,234	-\$24,444,690	\$14,080,316	\$322,734,860

Table 16 shows the bottom line average annual burden and cost for the source and permitting authority respondents under this ICR renewal for implementation of the part 70 Operating Permits Program between May 2012 and April 2015. Of the 5.3 million hours the Agency anticipates it will take to perform all the functions required by title V, about 3/4 of the burden applies to sources. However, the magnitude of the total expected burden can be misleading, due to the number of permitted sources

Permitting authorities incur the remaining 25 percent of the burden in Table 16, with the total burden spread between a significantly smaller number of entities than for sources. On average, the Agency estimates the permitting authority burden associated with the part 70 Operating Permits Program will be about 11,900 hours per year. However, for some permitting authorities with relatively fewer sources (Connecticut, Wyoming, etc.), this average burden will exceed their actual burden; and, for permitting authorities with more than the average number of sources (Louisiana, Texas, etc.), the average burden

will be too low. A better measure of the effect of title V regulations on permitting authorities would be to divide the total estimated hours by the number of operating permits. On average, each permitting authority can expect to spend about 84 hours per year managing and overseeing each permit in its jurisdiction, at a cost of approximately \$4,500 per permit. However, this cost cannot be considered an Unfunded Mandate from the federal government, because the net cost to permitting authorities for their management of an operating permits program must, by law, be passed on to sources in the form of permit fees of sufficient magnitude to fully offset all permit management costs. Therefore, the true annual cost to permitting authorities under title V is zero, and the true annual cost to sources is \$323 million, or approximately \$20,250 per permit.

Table 16. Bottom Line Average Annual Respondent Burden and Cost (2012-2015)

Type of Respondent	Number of Affected Entities	Average Annual Burden (Hours)	Average Annual Burden per Respondent (Hours)	Average Annual Burden per Source (Hours)	Average Annual Cost (2011\$)	Average Annual Cost per Respondent (2011\$)	Average Annual Cost per Source (2011\$)
Sources	15,940	3,977,316	250	250	\$250,570,887	\$15,720	\$15,720
Permitting Authorities	112	1,336,370	11,932	84	\$72,163,973	\$644,321	\$4,527
Total	16,052	5,313,686	NA	NA	\$322,734,860	NA	NA

6(e)(ii) The Agency Tally

Table 3 above displays the activities undertaken by the federal government (EPA) for the part 70 program. Section 6(c) gives the derivation of hourly costs for the EPA, and Table 4 gives expected baseline burden and costs (in 2012 dollars) for the EPA. The incremental burden and costs attributable to the FAP rule are shown in Table 10 for the EPA, and those attributable to the GHG Tailoring rules are shown in Table 13. In table 17 we show the calculation of the average annual burden and cost for the EPA, adjusted for the FAP and GHG Tailoring rules.

Table 17. Calculation of Bottom Line Average Annual Burden Hours and Cost for the EPA

	Baseline	Flexible Air Permit Rule	GHG Tailoring Rules	Total
Hours	33,864	-6,558	9,149	36,456
Cost	\$1,760,928	-\$340,999	\$475,765	\$1,895,695

As can be seen from Table 17, the total, bottom line burden incurred by the EPA for the part 70 Operating Permits Program is estimated to be about 36,500 hours and \$1.9 million dollars per year. This total represents approximately 2 hours and \$120 per source.

6(e)(iii) Variations in the Annual Bottom Line

The annual burden is not expected to change significantly from year to year over the 3 years covered by this ICR renewal. However, the burden is expected to increase incrementally each year as the number of permitted sources increases by about 2.5 percent per year.

6(f) Reasons for Change in Burden

The approved burden level in the 2007 ICR renewal was about 4.2 million hours per year for sources and 1.3 million burden hours per year for permitting authorities, for a total of about 5.5 million hours. Table 18 compares the burden in the 2007 ICR with the burden in this ICR renewal.

Table 18. Burden Change from 2007 ICR to Current ICR (Hours)

Type of Respondent	Average Annual Burden in November 2007 ICR	Average Annual Burden in ICR Renewal	Difference
Sources	4,176,069	3,977,316	-198,753
Permitting Authorities	1,349,570	1,336,370	-13,200
Total	5,525,639	5,313,686	-211,953

Change in Burden Due to Agency Discretion

The change in burden is a decrease from the 2007 ICR primarily due to burden reductions from fewer permit modifications being necessary due to implementation of the FAP rule. During the period of the 2007 ICR renewal, sources and permitting authorities were focused on revising existing permits (through significant modification procedures and renewals) to put flexibility provisions, authorized by the FAP rule, into existing title V permits, which partially offset the burden reductions that come from fewer permit modifications under the FAP rule. During the period of this ICR, we assume those FAP rule provisions have been established in the permits (except for a small number of new sources seeking Tier 2 flexible permits) and, thus, sources and permitting authorities alike reap the recurring burden reductions that come from the reduction in the number of significant and minor permit modifications that must be processed over the period of this ICR renewal. We estimate that the FAP rule reduces the burden by about 234,000 hours per year for sources and 180,000 hours per year for permitting authorities over the 3 years or this ICR renewal. The effects of the FAP rule are partially offset by the increased burden resulting from the requirement to permit GHG-emitting sources, although this burden has been limited by the GHG Tailoring rules to about 136,000 hours per year for sources and 102,000 hours per year for permitting authorities. Nevertheless, the FAP rule still provides a net reduction in burden for sources and permitting authorities after taking the GHG Tailoring rules into account.

Change in Burden Due to Adjustment in Agency Estimate

Also affecting the calculation of burden in this renewal is a change in the source population and the number of permits issued to part 70 sources since the last ICR renewal. Recent data shows a decline of almost 900 sources and permits from the levels assumed in the 2007 ICR renewal, possibly attributable to sources that have ceased operation due to the recent national economic decline. Also, our assumption concerning the number of new sources subject to permitting has changed – we assumed 50 new sources

per year in the 2007 renewal, while this renewal assumes 100 new sources per year (based on recent data collected from permitting authorities).

In addition, as discussed in section 6(b)(i), we recalculated the cost of labor for sources and permitting authorities for this ICR renewal. While not affecting the burden in terms of hours, this resulted in a significant increase in the dollar-per-hour rate assumed for sources and permitting authorities. As a result of this change, the estimated cost of labor for this ICR increased by about \$90 million per year for sources and \$11 million per year for permitting authorities despite the decrease in burden hours for these respondents.

Change in Burden for the EPA

For the EPA, the estimated burden level in the 2007 ICR renewal was about 33,400 hours per year, which we estimate will increase to about 36,500 hours per year over the 3 years of this ICR renewal. Unlike the situation for sources and permitting authorities, we believe that the increase in burden for the EPA resulting from GHG permitting will be greater than the reduction achieved due to the FAP rule. This is because we expect EPA’s role in reviewing and consulting with permitting authorities regarding permit modifications for GHGs will be significant during the initial implementation period that is currently taking place, while the level of EPA oversight that is foregone due to the reduction in modifications under the FAP rule will be less so. In addition, we updated the cost of labor assumed for the EPA (see section 6(c)). Based on the projected increases in burden hours and the dollar-per-hour rate for EPA labor, we estimate that the cost to the federal government of the part 70 program will increase by about \$393,000.

6(g) Burden Statement

As previously noted, it is impractical to attempt to delineate burden by respondent and activity due to the large number of respondents, the variation in the circumstances for each respondent, and the varied nature of the activities of the program. Following in Table 19 is the apportioned burden for each type of respondent. This is derived from the total permitting authority hourly burden divided by the number of permitting authorities, and similarly for sources.

Table 19. Burden Statement (Hours)

Type of Respondent	Number of Respondents	Total Annual Burden	Average Annual Burden per Respondent	Average Annual Burden per Source
Sources	15,940	3,977,316	250	250
Permitting Authorities	112	1,336,370	11,932	84

For the federal government, the EPA is the only affected entity covered by this ICR. We project an annual burden of 36,456 hours for the EPA, or about 2 hours per source.

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 the 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, the EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2004-0015, 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-2004-0015 and OMB Control Number 2060-0243 in any correspondence.

ATTACHMENT 1

ASSUMPTIONS FOR PART 70 ICR RENEWAL

TIME PERIOD OF ICR

The time period covered by this ICR is May 1, 2012 to April 2015

SOURCE POPULATION

1. Total population of title V sources as of June 2011 = 14,998.
An additional 100 sources will be added to the program before the ICR period begins, so the source populations at the beginning of ICR period will be 15,088.
2. This ICR projects that 284 new sources will become subject to title V each year increasing the population as follows:
3. Source population at the end of ICR year 1 = 15,372
4. Source population at the end of ICR year 2 = 15,656
5. Source population at the end of ICR year 3 = 15,940

INITIAL PERMIT ISSUANCE BACKLOG

6. The total backlog of existing sources that had not received their initial permits was 338 sources as of June 2011.
7. We Assume 85 initial backlogged permits will be issued before the ICR period begins and that all backlogged initial permits will be issued by the end of the ICR period (85 each year).

GENERAL PERMITS

8. Assume 16% of existing permits at beginning of ICR period are general permits.
9. Assume no new general permits will be issued during period of ICR
10. Assume 16% of renewals will be for general permits.

INITIAL PERMITS ISSUANCE RATE

11. Single-source permits are non-general permits.
12. There will be 253 backlogged initial single-source permits that will be issued in equal amounts each year of the ICR.
13. Source with backlogged permits have already submitted permit applications.
14. There will be 852 new single-source permits issued during the ICR (284 per year).
15. 552 of the 852 new single-source permits will be for sources that become subject due to step 2 of the GHG Tailoring rule, 300 of the 852 are subject for other reasons -- the GHG estimate is from the RIA for the GHG Tailoring rule.
16. Initial permits are composed of the new permits issued to new sources and new permits issued to reduce the backlog of sources that have submitted applications but are awaiting permit issuance (852 new + 253 backlog = 1,105 initial permits)

PERMIT APPLICATIONS

During the period of this ICR, it is assumed that only the new initial sources will submit applications for initial title V permits - backlogged initial source are assumed to have already prepared and submitted permit applications.

PERMIT REVISION RATES

17. Sources covered by general permits will not apply for permit revisions.
18. Permit revisions estimates for any year are based on the number of single-source permits in force at the beginning of the year.
19. Significant modifications occur for 10% of existing single-source permits per year.
20. Minor permit modifications and administrative amendments occur for 50% of existing single-source permits per year.

PERMIT RENEWAL

21. Both single-source and general permits are renewed but we treat them separately because burdens differ greatly.
22. Data indicate permit renewal backlog of 3,335 single-source permits as of June 2011 (permits that are passed their deadline for renewal).
23. We assume that equal numbers of backlogged permits renewed each year.
24. An additional 3,320 single-source permits will come due for renewal each year on their normal schedule (approximately 1/5 of the universe of permits issued or renewed 5 years previously, due to 5-year permit term).
25. Assume 16% of all renewals are general permits and 84 % single-source permits.

OPERATION OF GAP-FILING MONITORING

26. We assume operation of such monitoring in 50% of all permits.

MONITORING AND COMPLIANCE STATUS REPORTS

27. These reports are made based on all previously-issued permits (single-source and general), so the permit total at the beginning of each ICR year is used to calculate the number of reports occurring each year.

SYNTHETIC MINOR PERMITS

All synthetic minor permits had been issued prior to July 2007 so no burden is included during the term of this ICR.

PERMITTING AUTHORITY ACTIVITIES

28. Program administration, general permits administration, and preparing the enforcement reports occur on a yearly basis.
29. All new initial single-source permits (new and backlog) are assumed to go through the activities of permit drafting, public notification, interaction with the EPA, and issuance notifications.
30. The activities of public hearings and finalizing draft permits that have public comment is assumed for 2% of new permits.

EPA ACTIVITIES

31. The EPA reviews 25% of all new initial permits and consults on 25% of issues on new single-source permits, significant modifications, and minor permit modification.

32. The EPA reviews all significant and minor permit modifications to single-source permits.
33. The EPA reviews 5% of all single-source permit renewals.
34. Program oversight and review of enforcement reports occurs on a yearly basis

FLEXIBLE AIR PERMITS

35. See the ICR for the Flexible Air Permits rule (the FAP ICR) for more on the assumptions used in this portion of this ICR.
36. All existing tier 1 and 2 FAP permits were issued prior to the beginning of this ICR.
37. Tier I FAPs are 5% of all title V existing permits (existing when the ICR period begins or 797 permits).
38. No new Tier 1 FAPs expected during ICR period because the EPA assumes that new sources are built and permitted to handle anticipated growth.
39. Each Tier I FAP avoids 5 MPM per year and 1 SPM every 5 years.
40. Tier 2 FAPs are 10% of all title V existing permits or 1,574 existing permits and 10% of all new permits issued by the end of the ICR period or 119 permits.
41. Each Tier 2 FAP avoids 1 MPM per year.

GHG TAILORING RULES

42. The burden hour assumptions in this ICR are from the RIA and the ICR change worksheet for the 2010 GHG Tailoring rule.
43. The RIA for the GHG Tailoring rule estimated 552 new single-source permits due to GHG during Step 2 of the GHG Tailoring rule – we assume all will be issued in equal amounts during each year of the ICR period.
44. We assume no residential or commercial sources (non-industrial sources) will be issued title V permits during Step 2 – the GHG Tailoring rule RIA estimated less than 20 such permits would be issued and assumed the permit issuance burden would be one half that of industrial sources.
45. All modifications and all renewals for existing single-source permits (non-GHG) will experience a small burden increase to address GHG requirements.
46. We assume no general permits will be issued for new GHG sources during the period of this analysis.
47. Modifications due to GHG are new modifications to single-source permits that not already accounted for in the baseline analysis. The NSR RIA assumes 915 per year of these. See Appendix C, table 3.1.
48. We assume 80% of renewals that occur during this period will need to address GHG due to combustion-related activities.
49. The only additional burden for the EPA is related to review (100%) and consultation (25%) of minor permit modifications (MPM) and significant permit modifications (SPM) due to GHG.

ATTACHMENT 2

TITLE V OF THE CLEAN AIR ACT, THE STATUTORY REQUIREMENTS FOR THE
RESPONDENT INFORMATION

SEC. 502. PERMIT PROGRAMS

(a) Violations.- After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate an affected source (as provided in title IV), a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any other source required to have a permit under parts C or D of title I, or any other stationary source in a category designated (in whole or in part) by regulations promulgated by the Administrator (after notice and public comment) which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this title. (Nothing in this subsection shall be construed to alter the applicable requirements of this Act that a permit be obtained before construction or modification.) The Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this Act, promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such requirements.

(b) Regulations.- The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

(2) Monitoring and reporting requirements.

(3)(A) A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title, including section 507, including the reasonable costs of -

(i) reviewing and acting upon any application for such a permit,

(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

(iii) emissions and ambient monitoring,

(iv) preparing generally applicable regulations, or guidance,

(v) modeling, analyses, and demonstrations, and

(vi) preparing inventories and tracking emissions.

(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than \$25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

(ii) As used in this subparagraph, the term "regulated pollutant" shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a

national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover the reasonable costs authorized by subparagraph (A)) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause -

(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A). Such fees shall be designed solely to cover the Administrator's costs of administering the provisions of the permit program promulgated by the Administrator.

(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State, local, or interstate agency under this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph (A).

(4) Requirements for adequate personnel and funding to administer the program.

(5) A requirement that the permitting authority have adequate authority to:

(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

(B) issue permits for a fixed term, not to exceed 5 years;

(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

(D) terminate, modify, or revoke and reissue permits for cause;

(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than \$10,000 per day for each violation, and provide appropriate criminal penalties; and

(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under this title.

(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

(7) To ensure against unreasonable delay by the permitting authority, adequate authority and procedures to provide that a failure of such permitting authority to act on a permit application or permit renewal application (in accordance with the time periods specified in section 503 or, as appropriate, title IV) shall be treated as a final permit action solely for purposes of obtaining judicial review in State court of an action brought by any person referred to in paragraph (6) to require that action be taken by the permitting authority on such application without additional delay.

(8) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 503(e), subject to the provisions of section 114(c) of this Act.

(9) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.

(10) Provisions to allow changes within a permitted facility (or one operating pursuant to section 503(d)) without requiring a permit revision, if the changes are not modifications under any provision of title I and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions: *Provided*, That the facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different time frame for emergencies.

(c) Single Permit.- A single permit may be issued for a facility with multiple sources.

(d) Submission and Approval.- (1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification.

(2)(A) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, prior to the expiration of the 18-month period referred to in subparagraph (B), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

(B) If the Governor does not submit a program as required under paragraph (1), or if the Administrator disapproves any such program submitted by the Governor under paragraph (1), in whole or in part, 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

(C) The sanctions under section 179(b)(2) shall not apply pursuant to this paragraph in any area unless the failure to submit or the disapproval referred to in subparagraph (A) or (B) relates to an air pollutant for which such area has been designated a nonattainment area (as defined in part D of title I).

(3) If a program meeting the requirements of this title has not been approved in whole for any State, the Administrator shall, 2 years after the date required for submission of such a program under paragraph (1), promulgate, administer, and enforce a program under this title for that State.

(e) Suspension.- The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

(f) Prohibition.- No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this title and each of the following:

(1) All requirements established under title IV applicable to "affected sources."

(2) All requirements established under section 112 applicable to "major sources", "area sources," and "new sources."

(3) All requirements of title I (other than section 112) applicable to sources required to have a permit under this title. Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

(g) Interim Approval.- If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed. For the period of any such interim approval, the provisions of subsection (d)(2), and the obligation of the Administrator to promulgate a program under this title for the State pursuant to subsection (d)(3), shall be suspended. Such provisions and such obligation of the Administrator shall apply after the expiration of such interim approval.

(h) Effective Date.- The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

(i) Administration and Enforcement.- (1) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, the Administrator shall provide notice to the State and may, prior to the expiration of the 18-month period referred to in paragraph (2), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, 18 months after the date of the notice under paragraph (1), the Administrator

shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

(3) The sanctions under section 179(b)(2) shall not apply pursuant to this subsection in any area unless the failure to adequately enforce and administer the program relates to an air pollutant for which such area has been designated a nonattainment area.

(4) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, 2 years after the date of such finding, promulgate, administer, and enforce a program under this title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph. [42 U.S.C. 7661a]

SEC. 503. PERMIT APPLICATIONS.

(a) **APPLICABLE DATE.**-Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates-

(1) The effective date of a permit program or partial or interim permit program applicable to the source; or

(2) The date such source becomes subject to section 502(a).

(b) **COMPLIANCE PLAN.**-(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

(c) **DEADLINE.**-Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

(d) **TIMELY AND COMPLETE APPLICATIONS.**-Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit

under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

(e) COPIES; AVAILABILITY.-A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

SEC. 504. PERMIT REQUIREMENTS AND CONDITIONS.

(a) CONDITIONS.-Each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

(b) MONITORING AND ANALYSIS.-The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV, or where required elsewhere in this Act.

(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.-Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

§70.5(c) Standard applications form and required information. The State program under this part shall provide for a standard application form or forms. Information as described below for each emissions unit at a part 70 source shall be included in the application. The Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to §70.9 of this part. The permitting authority may use discretion in developing application forms that best meet program needs and administrative efficiency. The forms and attachments chosen, however, shall include the elements specified below:

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated alternative scenario identified by the source.

(3) The following emission related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this paragraph (c) of this section. The

permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to §70.9(b) of this part.

(ii) Identification and description of all points of emissions described in paragraph (c)(3)(i) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(iii) Emissions rate in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

(iv) The following information to the extent it is needed to determine to regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.

(v) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the part 70 source.

(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the Act.)

(viii) Calculations on which the information on paragraphs (c)(3)(i) through (c)(3)(vii) of this section is based.

(4) The following air pollution control requirements:

(i) Citation and description of all applicable requirements, and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements.

(7) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to § 70.6(a)(9) of this part or to define permit terms and conditions implementing § 70.4(b)(12) or § 70.6(a)(10) of this part.

(8) A compliance plan for all part 70 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements.

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(C) For requirements for which the source is not in compliance at the time or permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial

consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to and shall not sanction noncompliance with, the applicable requirements on which it is based.

(iv) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act;

(ii) A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the Act.

(d) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

ATTACHMENT 3

ANALYSIS OF PART 70 STATE PROGRAM EVALUATIONS FOR ICR RENEWAL PURPOSES
(1587.07)

Background

- Representative sample of State Evaluations selected (below) for review.
- List of state/local agencies reviewed is similar to list of states that initially responded to surveys for earlier ICRs.
 - Previous ICR estimates based on responses from: New Jersey, West Virginia, Mississippi, San Joaquin, Illinois, Vermont, Alabama, Dayton Ohio, Wisconsin.
 - Audit analysis based on same list, except for Dayton, Ohio and San Joaquin, where audits are not available for review.
 - State of Ohio was substituted for Dayton, Ohio because Dayton is a field office of the Ohio program, not a separate program.
- State program evaluations not designed primarily for ICR purposes – designed for programs oversight purposes instead – thus, results only partially appropriate for ICR purposes.
- State evaluations reports did not typically address total burdens hours or costs for individual activities, sources or states, nor did they address average burden hours or average costs per permit, per source, or per permitting authority.
- Data for ICR renewal also provided by the EPA’s internal TOPS part 70 tracking system – a system where EPA Regional offices provide tracking data on a 6-month basis for each approved part 70 program (some 3-month data also available for historical purposes).
 - TOPS data not summarized below, but independently included in assumptions included in ICR (i.e., source universe subject to permitting, number of initial permits issued, number of renewal permits issued, Number of significant modification issued, number of general permits (also interpreted as number of sources subject to general permitting).
- Since the last ICR renewal (30 months ago), the Title V Taskforce under the Clean Act Advisory Committee has undertaken a review of the title V program (this was mentioned briefly in the current ICR, section 3,3). This effort resulted in a list of recommendations for changes to policy and rulemakings to make the programs more effective, but no data useful for ICR renewal purposes was generated.
- For the record, the previous ICR assumed the following:
 - General permits are 1/5 of the total.
 - Public notification occurs for every draft permit.
 - Public comments cause draft permits to be revised 10% of the time.
 - Public hearings are held for 2% of permits.
 - Gap-filling monitoring (or recordkeeping which serves the same purpose) is required in ½ of permits, including general permits.
 - Significant permit revisions occur in 1/10 of issued single permits (does not include general permits) on an annual basis (30% over 3 years)
 - Minor permit modifications occur in ½ of single permits each year (150% of permits over 3 years)
 - Administrative amendments occurs in ½ of single permits each year (150% of permits over 3 years)
 - Permit renewals occur roughly at the same rate as the initial permits expire and that any backlog of renewals is reduced over the 3-year period of the ICR.
 - Applying for a permit renewal is about 1/2 the burden of applying for an initial permit, while for states, permit renewals are about 1/3 the burden of initial permits.
 - 100% of compliance reports reviewed by states.

Note that all of these state programs have been effective, with at least interim approval, which allowed them to begin issuing permits, for over 10 years at present.

Results of Evaluations

- No major changes to assumptions for ICR renewal supported by this review – information within evaluation reports generally consistent with past EPA assumptions.
- The state evaluations generally lack quantitative data, but they provide general support that the assumptions of the ICR are a directionally correct assessment of the frequency that certain activities occur.
- One minor change is in the number of sources that are expected to get regulatory relief through the use of general permits. The evaluations are not convincing on this point but tracking data shows that 16% of permits are general permits.
- Another minor change is in the percentage of public comments that lead to changes to the draft permits. The evaluations suggests that such changes are rare, consistent with the frequency that public hearings occur, since the standard for changing the permit and for holding a public hearing are similar. Thus, we are changing the frequency for finalizing drafts permit with public comment to 2% from 10% within the burden estimates for permitting authorities.

State Summaries

New Jersey (410 Permits)

1. No General permits
2. “Perform Gap-filling exercise on every permit” (didn’t answer question directly)
3. Public comments on less than 2% of draft permits, all changed in response
4. Public hearing requested occasionally, public attendance low
5. Significant modifications: 1-2% (TOPS shows 46 over life of program)
6. Minor Modifications: 90% (TOPS only addresses significant modifications)
7. Admin Amendments: 10%
8. Review 100% of compliance reports
9. Renewals easier to process because applications focus on changes at sources since permit issued. Renewals not a high priority at this time

West Virginia (171 Permits)

1. 1 general permit (certain units at natural gas compressor facilities), 26 sources fully implemented (13% of sources)
2. “Some sort” of gap-filling recordkeeping or monitoring in “most, if not all permits.” (Didn’t say how many units in these permits had such M&R). Experience is causing NSR permits to be written better, so that less gap-filing will be necessary in title V permits in future
3. Public comments are “rare,” or “0 to 3%,” and change due to comments occur similarly
4. No Public hearings have ever been held
5. 191 modifications to date (over life of program)
6. Significant Modifications: 11% (TOPS shows 0 over life of program)
7. Minor Modifications: 30.9%
8. Admin Amendments: 46.1%
9. Renewals easier to process, but we have only processed a few (Did not elaborate further)
10. Review 100% of compliance reports

Mississippi (317 Permits)

1. No general permits. Will consider general permits for MACT area sources not exempted from Title V
2. Said in “some cases” gap-filling has lead to new control devices. Also, did not specify how often gap-filling recordkeeping or monitoring added other than to say that they did so when the underlying standards are inadequate
3. Has not received many public comments, most on high profile sources on Gulf Coast. Also said comments during public comment period are “rare”
4. Did not specify that any public hearings have occurred
5. 384 revisions during life of program
6. Significant Modifications: 85 out of 384 or 22% (TOPS says 138)
7. Minor Modifications: 24 out of 384 or 6%
8. Admin Amendments: 33 out of 384 or 9% also they said 502(B)(10) changes were 242 out of 384 or 63% (these are similar in burden to admin. amendments because no public process required)
9. Renewals not easier to-date, but streamlined renewal applications coming, so may be easier in future
10. Review 100% of compliance reports

Alabama (251 Permits)

1. No general permits issued
2. Periodic monitoring added for “most units subject to a regulation that do not contain underlying monitoring requirements”
3. Public comments: Said they have not received many and that most were not relevant to title V
4. Did not state that any hearings had ever been held, only stated that they have procedures in place to hold hearings
5. TOPS says 54 significant revisions to date (no response to these questions in audit)
6. Renewals easier than initial issuance because of staff experience
7. Review 100% of compliance reports

Vermont (20 permits)

1. No general permits
2. They said they have added monitoring when necessary, but not how often
3. Public comments very few, perhaps 5% (1 comment)
4. State has had 1 public hearing
5. Significant Modifications: 55.3% (TOPS says 6 over life of program)
6. Minor Modifications: 20%
7. Admin Amendments: 26.7%
8. Renewals easier to process, application much better, review focuses on changes and CAM
9. Review 100% of compliance reports

Wisconsin (148 Permits)

1. General permits for non-metallic minerals processing plants, small heating units, hospital sterilizers, and printing presses; about 5% of sources
2. They say they have added monitoring but not how often
3. Public comments on 10% of permits, 5% change due to comment
4. Did not say how often public hearings held
5. Significant Modifications: 80% (TOPS says 136 life of program)
6. Minor Modifications: 5%
7. Admin Amendments: 15%

8. Just plainly said easier to renew
9. Review 100% of compliance reports

Illinois (728 Permits)

1. No general permits
2. No universal approach as to when gap-filing added. Much recordkeeping added but monitoring only typically for utility sources; monitoring may be added for other source categories based on case-by-case determination
3. Public comments on 5-7% of draft permits; most result in changes to the permit to some extent
4. Did not specify how often public hearings have occurred. The EPA notes that state's website for public hearing did not contain any public hearing records for title V permits within the last 6 months
5. Significant Modifications: 15% (TOPS says 41)
6. Minor Modifications: 40%
7. Admin Amendments: 45%
8. Renewals easier because most requirements already established in permits, requirements do not typically need to change, and renewal application much more complete than applications for initial permits
9. Review 100% of compliance reports

Ohio (755 Permits)

1. No general permits
2. "Gap-filling as appropriate based on regulations and DAPC Engineering Guide #65". Also said "routinely" added to permits
3. Public comments on less than 5% of draft permits; changes due to comments less than 1%
4. 8 public hearings have occurred during life of program
5. Significant Modifications: 10% (TOPS says 18)
6. Minor Modifications: 4%
7. Admin Amendments: 86%
8. Very much easier because just updating what already done
9. Review 100% of compliance reports

ATTACHMENT 4

DECEMBER 14, 2011 FEDERAL REGISTER NOTICE

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2004-0015 and EPA-HQ-OAR-2004-0016; FRL-9506-5]

Agency Information Collection Activities; Proposed Collections; Comment Request; State Operating Permit Program (Renewal) and Federal Operating Permit Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that the EPA is planning to submit a request to renew two existing approved Information Collection Requests (ICR) to the Office of Management and Budget (OMB). The two ICRs are scheduled to expire on April 30, 2012. Before submitting the two ICRs to OMB for review and approval, the EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before February 13, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0015 (for the part 70 state program) or Docket ID No. EPA-HQ-OAR-2004-0016 (for the part 71 Federal program), by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov*.
- *Fax: (202) 566-9744*.

• *Mail:* U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention: Docket ID No. EPA-HQ-OAR-2004-0015 (for Part 70) or Docket ID No. EPA-HQ-OAR-2004-0016 (for Part 71). Please include a total of two copies.

• *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0015 for the ICR renewal for the part 70 state permitting program or EPA-HQ-OAR-2004-0016 for the ICR renewal for the part 71 Federal (EPA) permitting program. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Herring, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3195; fax number: (919) 541-5509; email address: herring.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

The EPA has established a public docket for the Part 70 ICR renewal under Docket ID No. EPA-HQ-OAR-2004-0015 and a public docket for the Part 71 ICR renewal under Docket ID No. EPA-HQ-OAR-2004-0016, which are available for online viewing at <http://www.regulations.gov>, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC The EPA/DC 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 Public Reading Room is (202) 566-1744. Use <http://www.regulations.gov> to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket and access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified in this document.

What information is the EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA specifically solicits comments and information to enable it to:

- (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (ii) Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (iii) Enhance the quality, utility and clarity of the information to be collected; and
- (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, the EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that the EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for the EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by the EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity does this apply to?

Affected entities: Entities potentially affected by this action are those which must apply for and obtain an operating permit under title V of the Clean Air Act (Act). These, in general, include sources which are defined as “major” under any title of the Act.

Title: Part 70 State Operating Permit Program (Renewal) and Part 71 Federal Operating Permit Program (Renewal).

ICR number: For the Part 70 regulations, EPA ICR No. 1587.12 and OMB Control No. 2060–0243. For the Part 71 regulations, EPA ICR No. 1713.10 and OMB Control No. 2060–0336.

ICR status: The two ICRs are both scheduled to expire on April 30, 2012.

Abstract: Title V of the Act requires states to develop and implement a program for issuing operating permits to all sources that fall under any Act definition of “major” and certain other non-major sources that are subject to federal air quality regulations. The Act further requires the EPA to develop regulations that establish the minimum requirements for those state operating permits programs, to oversee implementation of the state programs, and to operate a federal operating permits program in areas not subject to an approved state program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information request unless it displays a currently valid OMB control number. The OMB control numbers for the EPA’s regulations in 40 CFR are listed in 40 CFR part 9 and 48 CFR chapter 15. The EPA regulations setting forth requirements for the state operating permit program are at 40 CFR part 70 and the EPA regulations setting forth the requirements for the federal (EPA) operating permit program are at 40 CFR part 71. The part 70 program is designed to be implemented primarily by state and local permitting authorities in all areas where they have jurisdiction. The part 71 program is designed to be implemented primarily by the EPA in all areas where state and local agencies do not have jurisdiction, such as Indian Country and offshore beyond states’ seaward boundaries.

In order to receive an operating permit for a major or other source subject to either of the permitting programs, the applicant must conduct the necessary research, perform the appropriate analyses and prepare the permit application with documentation to demonstrate that their project meets all applicable statutory and regulatory requirements. Specific activities and requirements are listed and described in the Supporting Statements for the two ICRs.

State and local agencies under part 70 and the EPA (or a delegate agency) under part 71 review permit applications, provide for public review of proposed permits, issue permits based on consideration of all technical factors and public input, and review information submittals required of sources during the term of the permit. Also, under part 70, the EPA reviews certain actions of the state and local agencies and provides oversight of the programs to ensure that they are being adequately implemented and enforced. Under part 71, the EPA reviews certain actions and performs oversight for any delegate agency, consistent with the terms of a delegation agreement. Consequently, information prepared and submitted by sources is essential for sources to receive permits, and for Federal, state, and local permitting agencies to adequately review the permit applications and thereby properly administer and manage the program.

Since the previous renewal of this ICR, the EPA has promulgated two changes to the part 70 and 71 regulations: the Flexible Air Permits rule and the Greenhouse Gas (GHG) Tailoring rule. The first rule provides a mechanism for sources to establish provisions in their operating permits that result in fewer permit revisions necessary during the term of the permit. The second rule establishes levels where GHG emissions trigger permitting requirements. The information collection requirements for these regulatory revisions were approved by OMB after the approval of the 2007 ICR renewal and those approved changes are included and updated in these ICR renewals. Also, the previous part 71 ICR renewal identified the EPA as the sole permitting authority, while this part 71 renewal identifies the EPA and one delegate agency, the Navajo Nation, as permitting authorities (the EPA continues to serve as a

permitting authority in all areas, while the delegate agency serves as a permitting authority in a limited portion of Indian country).

Information that is collected is handled according to the EPA’s policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2). See also section 114(c) of the Act.

Burden Statement: 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. The annual public reporting and recordkeeping burden for the collection of information under parts 70 and part 71 is broken down as follows:

Type of permit action	Part 70	Part 71
Permitting Authority:		
Number of Sources.....		174
Burden Hours per Response:	15,940	
Sources.....	250	215
Permitting Authority.....	84	94
Total Annual Burden Hours:		
Sources.....	3,977,118	37,413
Permitting Authority.....	1,334,766	1,318 ^a

Any minor discrepancies are due to rounding.

^a Only delegate agency burden is shown for part 71.

Respondents/Affected Entities: Industrial plants (sources); state, local, and tribal permitting authorities.

Estimated Number of Respondents: For part 70, there are 15,940 sources and 112 state and local permitting authorities. For part 71, there are 174 industry sources and 1 tribal delegate permitting authority (the EPA serves as a permitting authority but is not a respondent).

Estimated Total Annual Burden: For part 70, the total annual burden for sources and state and local permitting authorities is 5,311,884 hours and the total annual cost is \$226,736,622. For part 71, the total annual burden for sources and the one delegate agency (tribal) is 38,731 hours and the total annual cost is \$1,865,183.

Are there changes in the estimates from the last approval?

Since the last renewal of the part 70 ICR (in 2007), there is a decrease of 214 thousand hours (or about a 4 percent decrease) of annual respondent burden. This change is primarily due to an updated estimate of the number of permits expected compared to the last ICR renewal. To a lesser extent, this decrease is due to reduced permit renewal activity related to implementation of the Flexible Permits rule. Although the GHG Tailoring rule increased the number of source respondents by 552, the increase in burden was more than offset by the decrease in burden from the updated estimate of the number of permits and the decreased burden from the implementation of the Flexible Air Permits rule. Also, the annual per respondent burden has changed very little since the last part 70 ICR renewal (248 hours previously compared to the new estimate of 250 hours or about a 1 percent increase).

Since the last renewal of the part 71 ICR (in 2007), there is an increase of 10 thousand hours of total annual respondent burden (about a 36 percent increase). This is primarily due to an updated estimate of the number of permits expected (123 permits in the prior renewal versus 174 permits in this renewal or a 42 percent increase), which is due to increased energy development (oil and gas exploration and alternative energy development) in offshore areas under the EPA jurisdiction. In the current part 71 renewal, the Flexible Air Permits rule and the GHG Tailoring rule result in nearly offsetting decreases and increases in burden. Also, even though the total annual burden has increased compared to the prior ICR renewal, the annual per source burden has decreased by about 3 percent.

What is the next step in the process for this ICR?

The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, the EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICRs to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: December 8, 2011.

Mary E. Henigin,

Acting Office Director, Office of Air Quality Planning and Standards.

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