

**SUPPORTING STATEMENT
FOR THE PART 71
FEDERAL OPERATING PERMIT PROGRAM
(RENEWAL)**

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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 71 Federal Operating Permit 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 Federal Operating Permit Program, codified in title 40 of the Code of Federal Regulations (40 CFR) part 71. It has been assigned EPA tracking number 1713.13 and Office of Management and Budget (OMB) control number 2060-0336.

1(b) Short Characterization/Abstract

The part 71 program is a federal operating permit program implemented by the EPA (or a delegate agency) for sources located in areas where there is no state, local or tribal program, such as in Indian country; offshore areas where the Outer Continental Shelf (OCS) and Deep Water Ports Act (DWPA) regulations apply; where there is a deficient state or local (part 70) permit program; and where the EPA has objected to a particular part 70 permit and taken over permitting of that source because the state failed to adequately resolve the objection. Title V of the Clean Air Act (CAA or “the Act”) imposes on state or local permitting authorities (agencies), the duty to develop, administer and enforce operating permit programs which comply with title V and requires the EPA to administer and enforce a permit program when state, local or tribal agencies do not establish such a program, or where they establish such a program but they fail to perform their duties consistent with title V. Section 502(b) of the Act requires the EPA to promulgate regulations setting forth provisions under which state, local or tribal agencies will develop operating permit programs and submit them to the EPA for approval. Pursuant to this section, the EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250) which specifies the minimum elements of state operating permit programs.

1(b)(i) Federal program where there is no state, local or tribal program

Pursuant to regulations promulgated by the EPA on February 19, 1999 (64 FR 8247), the EPA has authority to establish part 71 programs within Indian country, and the EPA began administering the program in Indian country on March 22, 1999.

There are approximately 72 sources in Indian country with permits at the beginning of the ICR period and we expect to permit an additional 4 such sources by the end of the analysis period (through November 2025).

The EPA is the permitting authority for sources located beyond 25 miles (40 km) of the states’ seaward boundaries under the Outer Continental Shelf Lands Act (OCS sources), and the provisions of part 71 apply to the permitting of those sources, as well. The EPA estimates there are currently zero OCS sources with part 71 permits, though we predict as many as three OCS sources may seek part 71 permits during the period of this ICR renewal.

Deepwater Port sources (DWPA sources) are fixed or floating structures that are located beyond state seaward boundaries, intended for the transportation, storage and handling of oil or natural gas (offshore LNG terminals) and alternative energy projects. An offshore source may be either an OCS or a DWPA source – it may not be both. Because DWPA sources are required to be treated as if they are located in an “area of exclusive federal jurisdiction within a State,” the EPA must issue the title V permit for them [see section 1518(a)(1) of the DWPA]. Currently, there are zero DWPA sources permitted under part 71. We are aware of several sources that are seeking DWPA permits; thus, we estimate that six such sources will receive such permits during the period of the ICR.

1(b)(ii) Federal program as a backstop for deficient state programs

Section 502(i)(4) of the Act requires the EPA to promulgate, administer and enforce a title V program if the EPA makes a determination that a state or local permitting authority is not adequately administering or enforcing its EPA-approved title V permitting program. This requirement is implemented through regulations promulgated by the EPA on July 1, 1996 (61 FR 34202), specifically 40 CFR 71.4(c) and 71.10(b)(1). The process described in these regulations can take up to 2 years after a formal finding by the EPA is published in the *Federal Register* that the state part 70 program is deficient in its implementation or enforcement (this notice is called a “notice of deficiency” or “NOD”).

For the 3-year period covered by this ICR, it is unlikely that any state or local permitting program under part 70 will be replaced by a part 71 program administered by the EPA, and thus this ICR renewal does not include such scenarios. There are currently no NODs in place, and we do not expect to take over any state or local programs during the time period of this ICR.

1(b)(iii) Federal program for deficient state programs

Section 505(c) of the Act provides that if a permitting authority fails to submit a permit to the EPA that satisfies an EPA objection, then the EPA shall issue a permit that meets the requirements of the Act. The part 71 rules implement this provision by providing that if the state or local permitting authority fails to satisfy an EPA objection to a part 70 permit, then the EPA shall issue a part 71 permit instead. There is currently one part 70 source that has been issued a part 71 permit for this reason.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

When the EPA is the permitting authority under title V, a source subject to the program must prepare an application and submit it within 1 year of becoming subject (CAA section 503). The EPA must then issue the permit within 18 months of receiving a complete application (CAA section 503(c)) and thereafter administer (including revising, reopening, and enforcing the permit terms, as needed) and renew such permits at no more than 5-year intervals (CAA section 502(b)(5)). Sources must periodically (no less often than annually) certify that they are in compliance with applicable requirements and promptly report deviations from permit requirements to the permitting authority (CAA section 503(b)(2)), and permits are required to set forth requirements for sources to conduct monitoring and reporting to assure compliance with permit terms and conditions (CAA section 504(b)). 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 (CAA section 503(e)), and the public shall be given public notice of, and an opportunity for comment on, permit actions (CAA section 502(b)(6)). A copy of sections 502 through 504 of title V of the Act are in Attachment 1.

2(b) Practical Utility/Users of the Data

For the EPA to carry out its requirement under the Act to issue part 71 permits in areas where there is no approved part 70 program or where a state will not resolve an EPA objection to a part 70 permit, the EPA must receive and review permit applications, issue initial and renewal permits, issue permit revisions and receive and review compliance and monitoring reports submitted by sources. For the EPA to carry out its required oversight functions, where the EPA has delegated its authority to issue part 71 permits to a state or tribe (delegate agency), the EPA must review proposed permits of all types developed by the delegate

agency, review certain information submitted by the source to the delegate agency, and require the submittal of certain information concerning program implementation from the delegate agency.

2(c) Caveats and Considerations

The information included in this ICR is based upon the best data available to the Agency at this time. However, inconsistencies in reporting techniques, incomplete data sets, and sampling limitations imposed upon the Agency by the PRA necessitated a certain amount of extrapolation and “best-guess” estimations by Agency experts. Consequently, the reader should not consider the conclusions to be an exact representation of the level of burden or cost that will occur during the 3 years of this ICR. Instead, this ICR should be considered a directionally correct assessment of the impact the Federal Operating Permit Program will have over the next 3 years.

Throughout this ICR, the reader will observe estimated values that show accuracy to the single hour or dollar. However, reporting values at the single unit level can 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 could be presented in the text as \$5.5 (millions). 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

The need for the data required by the part 71 operating permits program has been well documented in prior ICRs. While much of the information requested under this ICR existed prior to the creation of the operating permit 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’s requirement to create the permitting program. To the extent that similar information was previously collected (e.g., state permits under state implementation plans), the part 71 program may replace those activities and avoid duplication of efforts

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

For any existing rule, section 3507(g) of the PRA limits the length of time for which the Director may approve a collection of information to 3 years. On November 30, 2019, OMB approved the ICR renewal for part 71 (EPA tracking number 1713.11) for 36 months, through November 30, 2022. Thus, this ICR is a renewal of the November 2019 ICR.

Except for information collection in notices of proposed rules or those exempted under the emergency processing provisions of 44 U.S.C. § 3507(j), the PRA requires the EPA to solicit comment on each proposed information collection, including the renewal or modification of any existing ICR. On January 7,

2022 (87 FR 962), the EPA published a notice soliciting comment on an analysis of burden for the part 71 program for the 3-year period of this ICR renewal (i.e., December 1, 2022, to November 30, 2025). A copy of the January 2022 notice is included in this ICR as Attachment 2. No public comments were received.

3(c) Consultations

In addition to the notice and comment requirement, agencies are also required to consult with potential respondents and data users about specific aspects of an ICR before submitting it to OMB for review and approval, regardless of whether changes have or have not been made to the collection activity.

During an EPA Regional Air Permitting Staff conference call, staff were given draft burden estimates for the various activities regional offices are responsible for. Some staff members advised evaluating the estimated burden hours with a spreadsheet they have compiled since the 2019 ICR that documents the number of hours they are spending on various part 71 permitting activities. This spreadsheet has been used to update the burden estimates for EPA activities such as program administration and permit issuance.

3(d) Effects of Less Frequent Collection

In general, collection of the information included in this ICR occurs once per activity (e.g., permit application or permit issuance). Periodic activities include a semi-annual compliance monitoring data report and an annual compliance certification from each source required by CAA sections 503(b)(1) and (2), respectively. The EPA has no leeway to require less frequent reporting.

3(e) General Guidelines

The OMB's general guidelines for information collections must be adhered to by all federal agencies for approval of any rulemaking's collection methodology. The recordkeeping and reporting requirements contained in the part 71 operating permits regulations do not exceed any of the OMB guidelines contained in 5 CFR 1320.5, except for the guideline which limits retention of records by respondents to 3 years. Part 71 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. These records are necessary to fulfill the intent of title V to assure compliance with applicable requirements. Questions regarding the obligations of a source and its status of compliance can be resolved through such records. In addition, 28 U.S.C. 2462 specifies 5 years as the general statute of limitations for federal claims in response to violations by regulated entities. The decision in *U.S. v. Conoco, Inc.*, No. 83-1916-E (W.D. Okla., January 23, 1984) found that the 5-year general statute of limitations applies to the Act.

3(f) Confidentiality

All information related to the permitting of sources under this program and related to compliance monitoring is required by section 503(e) of the Act to be subject to public review at all times. Information entitled to protection under section 114(c) of the Act 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

The consideration of sensitive questions (i.e., sexual, religious, personal, or other private matters) is not applicable to the part Federal Operating Permit Program. The information gathered for purposes of establishing a part 71 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 that have been delegated authority to implement the part 71 program by the EPA (i.e., delegate permitting authorities) and sources required to obtain part 71 operating permits.

There is currently one delegate permitting authority under part 71, which is the Navajo Nation Environmental Protection Agency (NNEPA). We do not anticipate any additional agencies becoming delegate permitting authorities during the period covered by this ICR renewal.

Under title V, all major stationary sources must obtain an operating permit.¹ 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.

Source respondents to this information collection are those sources subject to title V permitting that are located where the EPA or a delegate agency is the permitting authority (e.g., in Indian country, offshore [OCS and DWPA sources], and where there are unresolved EPA objections to part 70 permits). For the purposes of this ICR, the Agency identified the following existing source population subject to part 71: 72 in Indian country (12 of which are administered by the NNEPA), zero OCS sources, zero DWPA sources, and one source due to unresolved objection of a part 70 permit. By the end of the period covered by this ICR, there may also be up to an additional four permits issued in Indian Country, up to three additional OCS sources, and up to six additional DWPA sources subject to permitting under part 71. Thus, this analysis includes 73 total sources currently with part 71 permits and an increase of 13 new sources over the ICR period, for 86 total permitted sources by the end of the ICR period (we assume it will end on November 30, 2025).

For this update, the EPA is not assuming that we will take over any state permitting programs due to findings of program deficiencies. All prior NODs for state programs have been resolved to the EPA's satisfaction, and no part 71 permits were issued in response to such program deficiencies in the interim. At this time, the EPA has no active NODs, and we believe it unlikely that we will be issuing any permits for this reason during the period covered by this ICR renewal.

The SIC codes and North American Industrial Classification System (NAICS) codes for the part 71 sources located in Indian country are listed below in Table 1. This list was initially compiled for the 2007 ICR renewal, but we believe that it remains representative of the types of sources with part 71 permits.

¹ All definitions of "major" in the Act.

**Table 1. SIC and NAICS Codes for Part 71 Sources in Indian Country
(as of October 30, 2006)**

SIC Code	NAICS Code
1021	212234
1221	212111
1311	211111
1321	211112
1389	213112
2421	321
2431	32191
2436	321212
2493	321219
2819	325
2842	325612
2875	325314
2879	32532
2899	325
3341	331
3354	331316
4911	2211
4922	48621
4925	22121
4953	562
4961	22133
5171	42271
7011	7211
9711	92811

4(b) Information Requested

All activities associated with EPA issuance of operating permits are information collection activities and are reflected in this ICR. The following are lists of the data items submitted by sources and permitting authorities for ICR purposes under part 71. These activities represent the Agency's best representation of the burdens experienced by sources and permitting authorities for part 71 requirements.

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

Under Operating Permits rules, the following data items must be submitted by delegate permitting authorities to the EPA:

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

For this analysis, the submittals above are only necessary for the small fraction of permits handled by the NNEPA, the delegate agency. Most permits will be issued, implemented, and enforced by the EPA as permitting authority.

Under Operating Permit rules, the following data items must be submitted by sources to permitting authorities:

- Applications for permits, permit revisions, and permit renewals
- Semi-annual periodic monitoring reports
- Annual compliance certification reports

When the EPA is the permitting authority, sources submit these data directly to the EPA. When there is a delegate agency, these data are submitted directly to the delegate agency. Attachment 1 includes the statutory requirements for reference purposes.

4(b)(ii) Respondent activities

The following describes the information collection activities required of delegate permitting authorities and sources.

Delegate Permitting Authority Activities:

- **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 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-filing monitoring, when necessary, and drafting permit terms and conditions to reflect existing requirements.²
- **Comment period notification:** Providing notice to the public 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).

² This involves writing permit terms that reflect the “applicable requirements” that apply to sources.

- **Response to public comments:** Analyzing public comments and revising draft permit, when appropriate.
- **Permit issuance:** Formalizing permits, placing copies of final permits on public websites, entering information into the EPA's permit website ((the Integrated Compliance Information System (ICIS) for Air)) 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. This 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 annual report of the state's enforcement activities.

Source-Specific Activities:

- **Permit application preparation:** Includes internal meetings, permitting authority discussions, management and legal department involvement, responsible official certification, and contractor services.
- **Draft permit development:** Interaction with permitting authority on draft permit development.
- **Gap-filling development:** Development of periodic monitoring gap-filling, if applicable.
- **Public hearing participation:** Organizing, announcing, and conducting public hearings.
- **Operate gap-filling periodic monitoring:** Operation of monitoring equipment and the taking and keeping of records, where necessary.
- **Monitoring reports:** Preparing semi-annual monitoring data reports, including data analysis, responsible official certification, and report submission (annual burden for both reports). Includes preparing and submitting annual compliance certification.
- **Permit revisions:** Preparing applications for permit 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

In its role as the permitting authority for most of the sources subject to the part 71 program, the EPA carries out the same activities listed above for delegate permitting authorities, with the exception of those activities that involve interaction between the delegate permitting authorities and the EPA. When overseeing a delegate agency, the EPA carries out the activities listed below.

EPA Oversight Activities:

- **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 delegate agency on any problems detected in the proposed permit or permit revision including interaction related to fact finding on permit petitions.
- **Other Program Oversight:** Review annual reports of enforcement activities, develop formal EPA responses to public petitions, and review changes to delegated programs.

5(b) Collection Methodology and Management

For the part 71 program, when the EPA is the permitting authority, the EPA will receive data from sources in much the same manner as that established for sources reporting to state and local agencies under part 70. Thus, when the EPA is the permitting authority, we will retain copies of each permit application (including any application for permit modification), each draft permit, and each final permit. When a delegate agency is the permitting authority, the delegate agency will receive copies of these documents.

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 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.

In accordance with the analytical requirements established under the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Agency has determined that there are no adverse effects to be identified with regard to small entities and small businesses. This ICR renewal represents a slight increase in burden compared to the 2019 ICR renewal, due to the final transition of sources to the part 70 program implemented by the SUI under part 70, and an increase in data collection by regional offices, rather than due to any new information collection requirements. The burden did not increase as much as expected in the previous analysis.

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 permits and 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 71 for this submission.
- The annual report of enforcement activities is submitted to the EPA annually, but part 71 does not specify a date.

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 triggered by modifications by the source.

- Permit renewal applications are due at least 6 months prior to expiration of the permit.
- Semi-annual monitoring reports are due to be submitted to the permitting authority twice a year on dates specified by the permitting authority.
- Annual compliance certification reports are due annually on a date specified by the permitting authority.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden

The assumptions in Tables 2 and 3 have remained the same since the 2019 ICR, which included adjustments for and explanations of the Flexible Air Permits rule (FAP)³ and the Greenhouse Gas (GHG) Tailoring rule⁴.

Table 2. Average Source Burden by Activity

Activity	Hours per Source or Permit
Initial Permit Application	330
Draft Permit Interaction	50
Gap Filling Monitoring Development	44
Public Hearing Participation	11
Operate Gap Filling Monitoring	200
Prep Monitoring/Compliance Reports & Compliance Certifications	80
Significant Permit Revisions (11% of permits)	84
Minor Permit Revisions (45% of permits)	44
Administrative Amendments (50% of permits)	8
Permit Renewal Application	216
Other Permit Renewal Activities	22

Table 3. Average Permitting Authority Burden by Activity

Activity	Hours per Permit or Program
Program Administration	3500
Permit Application Review	110
Draft Permit Preparation	170
Comment Period Notification	11
Public Hearing (2% of permits)	110
Analyze Public Comments (2% of permits)	44
Permit Issuance	9
Significant Permit Revisions (11% of permits)	94
Minor Permit Revisions (45% of permits)	34

³ 74 FR 51418 (October 6, 2009).

⁴ 75 FR 31514 (June 3, 2010); 77 FR 41051 (July 12, 2012).

Administrative Amendments (50% of permits)	5
Permit Renewals	97
Review Monitoring/Compliance Reports	15
EPA Oversight of NNEPA Permits	2.1

6(b) Estimating Respondent Costs

6(b)(i) Estimating Labor Costs

To improve the accuracy of burden estimates, this ICR renewal updates the source labor rates to values in 2022 dollars based on recent publications by the Bureau of Labor Statistics (BLS).

The labor rate used to calculate sources' labor cost for this ICR renewal is \$79/hour. 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 2 will be carried out by Environmental Engineering Technicians. Specifically, we assumed that Environmental Engineering Technicians expend half of the labor hours to "Operate Gap-filling Monitoring" and "Prepare Monitoring Reports and Compliance Certification."

To derive this composite labor rate, we obtained the mean hourly wage for Environmental Engineers of \$48.18 from the most recent BLS Occupational Employment Statistics, which gives wages as of May 2021.⁵ Similarly, we obtained the May 2021 mean hourly wage for Environmental Engineering Technicians of \$27.21.⁶ In each case, we escalated the hourly wages to March 2022 using the BLS ECI for private industry workers, resulting in hourly wages of \$50.62 for Environmental Engineers and hourly wages of \$28.59 for Environmental Engineering Technicians.^{7, 8} An example escalation calculation for Environmental Engineers is as follows:

$$Wage_{March2022} = Wage_{May2021} \times \frac{ECI_{March2022}}{ECI_{March2021}}$$

$$Wage_{March2022} = \$48.18 \times \frac{151.7}{144.4} = \$50.62$$

We then calculated a weighted average hourly wage for sources using the total hours projected for sources over the 3 years of this ICR apportioned between Environmental Engineers and Environmental Engineering Technicians as discussed above. This calculation results in a weighted average hourly wage of \$43.80. 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,

⁵ Environmental Engineer hourly wages obtained from "Occupational Employment Statistics, Occupational Employment and Wages, May 2021, 17-2081 Environmental Engineers," U.S. Dept. of Commerce, BLS. (<http://www.bls.gov/oes/current/oes172081.htm> accessed May 2022).

⁶ Environmental Engineering Technician hourly wages obtained from "Occupational Employment Statistics, Occupational Employment and Wages, May 2021, 17-3025 Environmental Engineering Technicians," U.S. Dept. of Commerce, BLS. (<https://www.bls.gov/oes/current/oes173025.htm> accessed May 2022).

⁷ 2022 Employment Cost Indexes for sources obtained from "Employment Cost Index – March 2022 Table 2. Employment Cost Index for wages and salaries, by occupational group and industry (Seasonally adjusted)," U.S. Department of Labor, Bureau of Labor Statistics, Private Industry Workers - All Workers. (<https://www.bls.gov/news.release/eci.t02.htm> accessed May 2022).

⁸ 2021 Employment Cost Indexes for sources obtained from "Employment Cost Index – March 2021 Table 2. Employment Cost Index for wages and salaries, by occupational group and industry (Seasonally adjusted)," U.S. Department of Labor, Bureau of Labor Statistics, Private Industry Workers - All Workers. (https://www.bls.gov/news.release/archives/eci_04302021.pdf accessed May 2022).

yielding \$79/hour in 2022 dollars. This labor rate was applied to all source burden hours to calculate the sources' labor costs.

For delegate permitting authorities, we have maintained the practice in recent ICR renewals of using the same labor rate calculated for the EPA based on federal wage tables. The resulting labor rate for delegate permitting authorities is \$59/hour. This calculation is discussed further below in section 6(c).

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 71 requirements. Even if a part 71 permit applicant is a 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 71 requirement to develop and operate gap-filling monitoring to assure compliance with applicable requirements in certain, limited situations where the applicable requirements themselves do not require adequate 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.

Delegate 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 71 program will be part of the permitting authority's office inventory. In any case, the one existing delegate permitting authority operates a mature part 70 program, 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 71, the EPA assumes the operation, maintenance or services 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 71 requires sources to submit deviation reports, semi-annual reports of monitoring and annual compliance 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 delegate permitting authorities will be minimal, and none is 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 71 permit application. As discussed in the previous section, we believe that the gap-filling monitoring required of some sources under part 71 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 71 Operating Permit 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 bulk of the EPA's burden and cost under the part 71 program comes from our role as the primary permitting authority. We estimate that the EPA will be the permitting authority for approximately 76 of the 88 permits projected to be issued by the part 71 program by the end of this ICR renewal period. Because we cannot predict the precise division of activities between the EPA and the delegate permitting authorities [e.g., the exact mix of sources needing permit revisions (i.e., significant and minor permit modifications and administrative amendments), sources needing permit renewals or permits requiring public hearings], we continue the practice from previous ICRs of calculating the total burden for permitting authorities (based on addressing all part 71 sources) and then apportioning that burden between the EPA and the delegate permitting authorities based on the projected number of sources covered by each. This calculation is detailed below in section 6(d) where we address respondent burden and cost.

The EPA also incurs burden and cost for oversight of delegate permitting authorities. The estimated burden associated with the each of the activities listed above in section 5(a) for the EPA is presented below in Table 4.

The estimated EPA labor rate for this ICR is \$59/hour. The rate reflects the assumption that the EPA personnel overseeing the part 71 Operating Permit Program are classified as Grade 12, Step 5.⁹ The corresponding salary is loaded with benefits at the standard rate of 60 percent. This is an increase in loaded EPA labor rates from that used in the 2019 ICR renewal for part 71 of \$55/hour (which was based on a combination of assumptions concerning various staff and management and support staff time).

Table 4. Average EPA Burden by Activity for Oversight of Delegate Agencies

⁹ Federal Labor Cost obtained from U.S. Office of Personnel Management 2022 General Schedule Table 2022-GS. Hourly labor rate assumed is GS-12, Step 5 (Technical Labor).

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

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

Oversight of the delegate agency averages about 2.1 hours per source per year on an aggregate basis (see Table 3). In the case of the NNEPA, the part 71 permits they will implement as a delegate agency were previously issued by the EPA, and the delegation agreement does not provide for any new permits to be issued by the NNEPA. Thus, the EPA believes the assumption of 2.1 hours per source for EPA oversight will be appropriate due to the reduced scope of the program and the 12 permits involved. As a result, the estimated EPA baseline burden to oversee the delegate agency will be approximately 25 hours per year at a cost of \$1,487 per year.

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

There is currently one delegate permitting authority under part 71, the NNEPA. We do not expect any additional delegations during the period of this ICR renewal.

We project that by the end of the period, there will be 76 sources in Indian country (12 of which are administered by the NNEPA), up to three OCS sources, up to six DPWA sources, and one permit issued because of EPA objection to a part 70 permit.

Table 5 shows the number of existing and projected source respondents during the three years of this ICR renewal. At the beginning of this ICR period (December 2022), there will be a backlog of four existing sources that have not yet received their initial permits (these sources have submitted initial permit applications; therefore, this ICR does not include burden for application preparation). The Agency projects that the backlogged permits will all be issued during the three years of this ICR (two in the first year, one in the second year, and one in the third year). By the end of the three-year period, we estimate that 17 additional permits (when accounting for new sources and processing backlogged permits) will be issued. We calculate the burden for the new sources to include all the activities associated with obtaining an initial permit.

Table 5. Identification of Affected Entities and Permit Issuance Schedule

Interval	Source Population	New Sources	Permitting Backlog	Additional Permits Issued	Total Permits Issued
Start of Yr 1:	73	0	4	0	71
End of Yr 1:	78	5	2	7	78
End of Yr 2:	82	4	1	5	83
End of Yr 3:	86	4	1	5	88
	3 Year Totals =	13		17	

Table 6 lists the burden categories, expected number of occurrences for each, and the associated burden and costs for all part 71 sources when the EPA or a delegate agency is the permitting authority. The quantities in the “Number of Affected Permits” column are from direct assessments of the 88 permits expected to be issued and effective by the end of the period covered by this ICR. The burden and cost estimates in Table 6 are based on the assumptions in Tables 2 and 5.

Table 6. Baseline Burden and Cost of Source Activities

Sources Hourly Labor Rate = \$79.00					
Activity	Burden per Permit (Hours)	Number of Affected Permits over 3 Year ICR	Total 3-Year Burden (Hours)	Total 3-Year Cost (2022 \$)	
Initial Permit Application	330	13	4,290	\$338,910	
Draft Permit Interaction	50	17	850	\$67,150	
Gap Filling Monitoring Development	44	9	396	\$31,284	
Public Hearing Participation	11	0	0	\$0	
Operate Gap Filling Monitoring	200	Yr 1:	36	7,200	\$568,800
		Yr 2:	39	7,800	\$616,200
		Yr 3:	42	8,400	\$663,600
Prep Monitoring/Compliance Reports & Compliance Certifications	80	Yr 1:	71	5,680	\$448,720
		Yr 2:	78	6,240	\$492,960
		Yr 3:	83	6,640	\$524,560
Revisions/Modifications:					
Significant Permit Revisions (11% of permits)	84	Yr 1:	8	672	\$53,088
		Yr 2:	9	756	\$59,724
		Yr 3:	9	756	\$59,724
Minor Permit Revisions (45% of permits)	44	Yr 1:	32	1,408	\$111,232
		Yr 2:	35	1,540	\$121,660
		Yr 3:	37	1,628	\$128,612
Administrative Amendments (50% of permits)	8	Yr 1:	36	288	\$22,752
		Yr 2:	39	312	\$24,648
		Yr 3:	42	336	\$26,544
			Revision Subtotals =	7,696	\$607,984
Permit Renewal Application	216	53	11,448	\$904,392	
Other Permit Renewal Activities	22	53	1,166	\$92,114	
			Total Burden and Cost for All Sources Over 3 Yrs =	67,806	\$5,356,674

Table 7 lists the burden categories for permitting authorities (the EPA and delegate agencies), the expected number of permits involved, and the expected burden and cost for each category (based on the assumptions of Tables 3 and 5). Since the burden per activity assumptions and wage rates are the same for the EPA and delegate agencies and we cannot predict the precise division of activities between the EPA and the delegate permitting authorities, we calculate the total for all permitting authority activities across all the permits. For the purposes of the bottom-line analyses of Tables 8 through 12, we prorate the total permitting authority burden between the EPA and the one delegate agency (the NNEPA) based on the number of permits that we project each will administer during the period of the ICR renewal. Specifically, we apportion EPA burden at a rate of about 86 percent (76 of the 88 total permits) and about 14 percent (12 sources) for the delegate agency.

Table 7. Baseline Burden and Cost of Permitting Authority Activities

Permitting Authority Hourly Labor Rate = \$59.00					
Activity	Burden per Permit (Hours)	Number of Affected Permits over 3 Year ICR		Total 3-Year Burden (Hours)	Total 3-Year Cost (2021 \$)
Program Administration	3500		1	10,500	\$619,500
Permit Application Review	110		13	1,430	\$84,370
Draft Permit Preparation	170		17	2,890	\$170,510
Comment Period Notification	11		17	187	\$11,033
Public Hearing (2% of permits)	110		0	0	\$0
Analyze Public Comments (2% of permits)	44		0	0	\$0
Permit Issuance	9		17	153	\$9,027
Significant Permit Revisions (11% of permits)	94		26	2,444	\$144,196
Minor Permit Revisions (45% of permits)	34		104	3,536	\$208,624
Administrative Amendments (50% of permits)	5		117	585	\$34,515
		Revision Subtotals =		6,565	\$387,335
Permit Renewals	97		53	5,141	\$303,319
Review Monitoring/Compliance Reports	2.1	Yr 1:	71	149	\$8,797
		Yr 2:	78	164	\$9,664
		Yr 3:	83	174	\$10,284
Total Burden and Cost for All Permit Authorities Over 3 Yrs =				27,353	\$1,613,839

6(e) Bottom Line Burden Hours and Cost Tables

The burden and costs associated with part 71 are shown above in Tables 6 and 7 for sources and permitting authorities (both the EPA and delegated agency), respectively. The burden and costs incurred by the EPA in its oversight role was previously discussed in section 6(c).

6(e)(i) Respondent Tally

Tables 8 and 9 show the bottom line average annual burden and cost for the respondents (sources and the delegate permitting authority) under this ICR renewal for implementation of the part 71 Operating Permit Program between December 1, 2022, and November 30, 2025.

As Table 8 shows, the Agency anticipates it will take approximately 22,602 hours per year for the 88 sources subject to part 71 permitting to perform all the functions required by title V. The average per source is 256.84 hours – just about 6 weeks of a full-time employee’s time. Table 9 shows the cost associated with that burden to be relatively small – approximately \$20,290.

For the single delegate permitting authority (the NNEPA), Tables 8, 9, and 10 show that we estimate the burden associated with the part 71 program will be approximately 1,243 hours per year, or about 104 hours and \$6,113 for each of the 12 permits administered by the delegate agency. 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 permit 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 the delegate permitting authority under part 71 is zero, and the true annual cost to sources is the sum of their direct costs – Table 9 shows these annual costs to be about \$1.8 million for sources and about \$73,356 for the delegate agency for a total annual cost to respondents of about \$1.9 million.

Table 8. Bottom Line Average Annual Respondent Burden (Hours)

Respondent	Number of Affected Entities	Average Annual Burden (hours)	Average Annual Burden per Respondent (hours)	Average Annual Burden per Source (hours)
Sources	88	22,602	256.84	256.84
Delegate Permitting Authority	1	1,243	1,243	104
Totals =	89	23,845	NA	NA

Table 9. Bottom Line Average Annual Respondent Cost (2022\$)

Respondent	Number of Affected Entities	Average Annual Cost (2022\$)	Average Annual Cost per Respondent (2022\$)	Average Annual Cost per Source (2022\$)
Sources	88	\$1,785,558	\$20,290	\$20,290
Delegate Permitting Authority	1	\$73,356	\$73,356	\$6,113
Totals =	89	\$1,858,914	NA	NA

6(e)(ii) The Agency Tally

Table 3 displays the activities undertaken by the federal government (EPA) for the part 71 program in its role as permitting authority, and Table 4 shows the activities undertaken by the EPA in its oversight role for delegate permitting authorities. Section 6(c) gives the derivation of hourly costs for the EPA. Table 7 gives the expected burden and cost for the EPA as permitting authority, and section 6(c) discusses the baseline burden and costs for the EPA in overseeing delegate permitting authorities.

Table 10. Bottom Line Average Annual EPA Burden and Cost

EPA Role	Number of Sources	AGENCY BURDEN		AGENCY COST	
		Annual EPA Burden (hours)	Average Annual Burden per Source (hours)	Average Annual EPA Cost (2022\$)	Average Annual Cost per Source (2022\$)
Permitting Authority	76	7,874	104	\$464,590	\$6,113
Oversight of Delegate Agencies	12	25	2	\$1,487	\$124
Total =	88	7,900	NA	\$466,077	NA

As can be seen from Table 10, the total burden incurred by the EPA for the part 71 Operating Permit Program is estimated to be about 7,900 hours and \$466,000 per year, or an average of approximately 104 hours and \$6,100 for each of the 76 sources to be administered by the EPA. In overseeing the delegate permitting authority, the EPA expects an annual burden of less than 30 hours and \$1,500 per year, for an average of 2 hours and about \$124 for each of the 12 sources administered by the NNEPA.

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

The annual burden is not expected to change significantly 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 new sources subject to permitting increases by about 5 sources per year or about 5 percent per year.

6(f) *Reasons for Change in Burden*

Table 11 compares the respondent burden in the 2019 ICR renewal with the burden in this ICR renewal. The approved burden level in the previous ICR for source respondents was 22,121 hours per year, while this ICR estimates total annual source burden at 22,602 burden hours per year. The burden hours did not significantly increase as expected in the 2019 ICR renewal. This change in burden from the previous ICR renewal is primarily due to updated estimates of the number of sources and permits subject to the part 71 programs, rather than any new federal mandates (i.e., changes in paperwork requirements for respondents). The 2019 ICR analysis assumed 92 permits at the end of that 3-year cycle in 2022. However, the current analysis estimates 73 existing permits at the beginning of the 2022 ICR renewal (December 1, 2022).

Table 11. Burden Change from 2019 ICR to Current ICR (Hours)

Type of Respondent	Average Annual Burden in 2019 ICR (hours)	Average Annual Burden in ICR Renewal (2022) (hours)	Difference (hours)	% Change (hours)
Sources	22,121	22,602	481	2%
Delegate Permitting Authority	1,586	1,243	-343	-22%
Total =	23,707	23,845	138	NA

6(g) *Burden Statement*

Table 12 shows the total annual average burden, the annual burden per respondent, and the annual burden per sources for each type of respondent (i.e. sources and the single delegate permitting authority).

Table 12. Burden Statement (Hours)

Type of Respondent	Number of Respondents	Total Annual Burden (Hours)	Annual Burden Per Respondent (Hours)	Annual Burden Per Source* (Hours)
Sources	88	22,602	257	257
Delegate Permitting Authority	1	1,243	1,243	104

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-

2004-0016-0031, 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 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. You are also able to 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-2004-0016-0031 and OMB Control Number 2060-0336 in any correspondence.

Attachment 1. Statutory Requirements for Respondent Information

SECTIONS 502 THROUGH 504 OF TITLE V OF THE CLEAN AIR ACT

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 of 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 1. January 7, 2022 Federal Register Notice for Part 71 ICR



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to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to Assist Another Agency in Its Efforts to Respond to a Breach of Personally Identifiable Information: To another Federal agency or Federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Additional routine uses that apply to this system are:

1. Records may be disclosed to federal, state, local, and tribal authorities in conformity with federal, state, local, and tribal laws when necessary to protect the environment or public health or safety, including carrying out an investigation or response. Personal medical records will not be shared. Information sharing agreements may be used as a mechanism to define appropriate limitations on use and disclosure of Privacy Act information by state, tribal, and local officials. Relevant federal, state, tribal, and local laws may also provide assurance that the information will be kept confidential. Information may also be shared with state agencies and with the public as part of their participation in the Superfund evaluation and decision-making process. This may include public disclosure of addresses where EPA determines cleanup actions are required.

2. In case of emergency, EPA may need to share information with members of the public to assure protection of the environment or public health and safety.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained electronically on computer storage devices such as computer tapes and disks. The computer storage devices are located at EPA OLEM. Backup will be maintained at a disaster recovery site. Computer records are maintained in a secure password protected environment. Access to computer records is limited to those who have a need to know. Other associated records may also be stored in other electronic or paper formats, such as Microsoft Excel spreadsheets, Microsoft Word documents or tables, or

in file folders. During the course of the assessment, records may also be temporarily stored off-site in secure facilities such as incident command posts or EPA field offices which are maintained and secured by EPA staff. Permission level assignments will allow users access only to those functions for which they are authorized. All records are maintained in secure, access-controlled areas or buildings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information may be retrieved by any collected data element, such as a resident's name or address, or information may be retrieved by GIS coordinates or by identifying numbers assigned to a person, sampling location, or residence.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records maintained in this system are subject to record schedule 1036, which is still being finalized.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in Environmental Assessments of Residential Properties are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800-53, "Security and Privacy Controls for Information Systems and Organizations," Revision 5.

ADMINISTRATIVE SAFEGUARDS
For documents in EPA database systems, those systems have a single point of access via a front-end Portal. All users are required to complete a new user form (signed by their supervisor) and take online security training before they are provided with access. All authorized users of the EARP application are required to take an annual security training identifying the user's role and responsibilities for protecting the Agency's information resources, as well as, consequences for not adhering to the policy. Similarly, those documents maintained on Agency computers prior to placement in EARP are protected by passwords and/or Personal Identity Verification, and all agency users are required to complete a new user form (signed by their supervisor) and take computer security training.

TECHNICAL SAFEGUARDS
Electronic records are maintained in a secure, password protected electronic system.

PHYSICAL SAFEGUARDS

Paper files are maintained in locked file cabinets when not in use by EPA emergency response staff. All records are maintained in secure, access-controlled areas or buildings.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, privacy@epa.gov.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

86 FR 23958 (May 5, 2021), 81 FR 23488 (April 21, 2016).

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2022-00068 Filed 1-6-22; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2004-0016; FRL-9383-01-OAR]

Proposed Information Collection Request; Comment Request; Part 71 Federal Operating Permit Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), "Part 71 Federal Operating Permit

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