Semiannual Title V Permit Data Report

This information request is authorized pursuant to the Information Collection Request for Part 70 Operating Permit Regulations, EPA Number 1587.06, OMB Number 2060-0243; April 2004.

Permitting Authority:		
Report Date:		
Reporting Period:	☐January 01 – June 30, *Report due July 31*	☐July 01 – December 31, *Report due January 31*

Data Element	Reported Value	Information
1. Outstanding Permit Issuance	a) Number of final actions: b) Total commitment universe: c) Date commitment completed (if applicable):	• Total final actions on Permitting Authority-specific permit issuance commitments (i.e., agreements by the Permitting Authority to complete action on initial permits within a specified time-frame, such as agreements related to the 2001 citizen comments). • If the Permitting Authority does not have a commitment, enter "not applicable" in 1(a) and 1(b).
2. Total Current Part 70 Source Universe and Permit Universe	a) Number of active part 70 sources that have obtained part 70 permits, plus the number of active part 70 sources that have not yet obtained part 70 permits:	• The total current part 70 source universe includes all sources subject to the Permitting Authority's part 70 program applicability requirements (i.e., provisions comparable to §70.3). • In 2.a), count all active sources that either have obtained or will obtain a part 70 permit. EPA expects that this data will be primarily based on the Permitting Authority's application and permit tracking information. If, however, the Permitting Authority is aware of part 70 sources that are not yet captured by application or permit information, count those sources as well. • Do not count sources that are no longer subject to part 70, such as sources that have shut down, or become natural minors or synthetic minors, and do not have an active part 70 permit. • Do not double count sources included in 2.b).

Total Current Part 70 Source Universe and Permit Universe **(Continued)**	b) Number of part 70 sources that have applied to obtain a synthetic minor restriction in lieu of a part 70 permit, and the part 70 program's permit application due dates for those sources have passed:	• Element 2.b) is intended to capture the universe of part 70 sources that are seeking synthetic minor restrictions in lieu of part 70 permits, but haven't received those restrictions before becoming subject to the part 70 program's permit application requirements. If the part 70 applications don't readily identify sources seeking such restrictions, the Permitting Authority may include those sources in 2.a), and need not break them out here. However, EPA expects Permitting Authorities to consider pending synthetic minor requests not addressed in part 70 applications to calculate this portion of the part 70 source universe. • Count sources that currently meet the part 70 program's applicability requirements, their part 70 application due dates have passed, and they have requested but not yet received synthetic minor restrictions in lieu of a part 70 permit (or permit renewal). • Also count active sources whose synthetic minor restrictions have expired (i.e., no synthetic minor restrictions are currently in place, even though they may be eligible for such restrictions) and are past their part 70 program's application due date. • Do not count sources that have active synthetic minor restrictions and are no longer subject to part 70. • Do not double count sources included in 2(a).
	c) Total number of current part 70 sources (a+b):	
	d) *For permitting authorities that issue multiple part 70 permits to a single source:* total number of active part 70 permits issued, plus part 70 permits applied for:	• For Permitting Authorities that issue multiple part 70 permits to a single source, and these permits are issued and tracked separately, report the total permit universe, including # of active part 70 permits issued (element 3 below), plus permits applied for (based on pending applications). This information is for correlating data when the Permitting Authority's part 70 permit universe may be greater than the part 70 source universe. • For Permitting Authorities that do not issue multiple permits to a single source, or for those that issue and track multiple permits issued to a source on a source-wide basis, enter "not applicable" in 2.d).

3. Total Active Part 70 Permits	Total number of active part 70 permits:	• This element includes all <u>active</u> initial and renewal part 70 permits issued by the permitting authority. Do <u>not</u> count inactive permits, i.e., permits that are no longer in effect due to source shutdown, synthetic minor restrictions, etc. Note: the procedures for rendering part 70 permits no longer effective may vary, depending on the part 70 program. • Do <u>not</u> count both initial and renewal permits (or prior renewal and current renewal permits) issued to the same source; i.e., do not double count. • Count permits that have been extended (see 6.b. below), but do <u>not</u> count permits that have expired, or have been voided, revoked, etc. • Count each source covered by a general permit separately for this data element. If a single source has several general permits and/or source specific permits, refer to the information for permitting authorities that issue multiple part 70 permits to a single source. • For permitting authorities that issue multiple part 70 permits to a single source and included information in element 2(d), count each permitted portion of the source separately for this element. This distinction is for correlating this data element with the permit universe information in element #2(d).
4. Timeliness of Initial Permits *(*PART element)	a) Total number of initial part 70 permits issued during 6 month reporting period:	• This data element tracks the initial part 70 permits issued as final (e.g., not draft or proposed) during the 6 month reporting period covered by this report, and whether they were issued within 18 months of receipt of an administratively complete application. • For TOPS purposes, initial permits are permits that are issued to any source that has become subject to part 70 for the first time, or any source that comes back into the part 70 program after a period of not being subject. • If no initial permits were issued during the 6 month reporting period, report "zero" in 4(b), and "not applicable" in 4(a).
	b) Number of initial part 70 permits finalized during 6 month reporting period that were issued within 18 months:	• Start the 18-month clock on the submittal date of an administratively complete application. For purposes of this data element, do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. • For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each permitted portion of the source separately for this element. This distinction is for determining individual permit timeliness.

5. Total Outstanding Initial Part 70 Applications	The number of active initial part 70 applications older than 18 months:	• This element tracks all active, administratively complete initial part 70 permit applications that the permitting authority has not taken final action on within 18 months of receipt of the administratively complete application. Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. • For TOPS purposes, initial part 70 applications are applications for sources that are subject to title V for the first time, or for any source that comes back into the title V program after a period of not being subject. Do not include renewal applications. • Include all current outstanding initial applications, including those that may also be tracked in data element #1. • Do not count initial applications the Permitting Authority has taken final action on.
6. Outstanding Renewal Permit Actions	a) Total number of expired permits for active part 70 sources:	• This data element tracks the total number of expired permits for active part 70 sources. Part 70 permits expire after 5 years if the sources do not submit timely and complete renewal applications, or if they have lost their application shield by not timely responding to additional requests for information. • Include expired permits that have been addressed through consent orders or other enforcement mechanisms. Expired permits can be further addressed in the "Additional Information" element. • Do not include permits that have expired because the source is no longer subject to Title V; i.e., they have shutdown or have received synthetic minor restrictions. For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each expired permit separately.

Outstanding Renewal Permit Actions **(Continued)**	b) Total number of active permits with terms extended past 5 years:	• This data element tracks the total number of active permits that have been extended past the original 5 year permit term. Part 70 permits or permit conditions are extended beyond the original 5 year term when sources submit a timely and complete renewal application (and any timely and complete additional information requested by the permitting authority), but the permitting authority has not yet issued a renewal permit. • Count all extended permits, including extended permits for sources that submitted timely and complete renewal applications within the last 18 months. Pending applications that are less than 18 months old can be further addressed in the "Additional Information' element. • Do not include inactive extended permits, i.e., when a subsequent permit renewal has been issued or a source is no longer subject to part 70. • Do not include "expired part 70 permits" that have been addressed through consent orders or other enforcement mechanisms. Count expired permits in 6(a). • For permitting authorities that issue multiple part 70 permits to a single source and included information in 2(d), count each extended permit separately.

7. Timeliness of Significant Modifications (PART element - a and b only)	a) Total number of significant modifications issued during 6 month reporting period:	• This data element tracks the number of significant modifications issued as final (e.g., not draft or proposed) during the 6 month reporting period. It also tracks the number of those modifications that were issued within 18 months of receipt of an administratively complete significant modification application, and also the number that were issued within 9 months. Note that 7(c) is a subset of 7(b). • If no significant modifications were issued during the 6 month reporting period, report "zero" in 7(a) and "not applicable" in 7(b) and 7(c). • Start the application clock on the submittal date of an administratively complete significant modification application. Do not restart the clock for additional information submissions.
	b) Number of significant modifications finalized during 6 month reporting period that were issued within 18 months:	
	c) Number of significant modifications finalized during 6 month reporting period that were issued within 9 months:	
8. Outstanding Significant Permit Modifications	Total number of active significant modification applications older than 18 months:	• This element tracks all active, administratively complete significant permit modification applications that the permitting authority has not taken final action on within 18 months of receipt of the administratively complete application. • Do not stop or restart the 18 month clock for additional information submitted after the application is deemed administratively complete. • Do <u>not</u> count significant modification applications the Permitting Authority has taken final action on.
9. Comments and Additional Information		Permitting authorities may provide any additional information in this section. For example, a permitting authority may address data changes, data management issues, general permits, multiple permits issued to single stationary sources, synthetic minor information, additional relevant data, etc.

Q & A's on Revisions to TOPS

What is TOPS?

The Title V Operating Permit System (TOPS) is an internal EPA computer database used to track the progress of State and local permitting authorities ("Permitting Authorities") in administering approved part 70 operating permit programs. Currently, each Permitting Authority provides tracking data four times a year to its EPA Region and the EPA Region enters the data into TOPS. EPA takes data on issuance of initial operating permits from TOPS and provides it to the public at http://www.epa.gov/oar/oaqps/permits/maps/mapslink.html

Why is TOPS being revised?

We seek to improve the administrative tracking data that we have been collecting, and begin collecting additional data. We are making the revisions to TOPS at this time because Permitting Authorities have issued most of the first-round initial operating permits, upon which the current version of TOPS focuses. Those first-round permits are starting to expire and today's proposed revisions will enable the Agency to track the issuance of renewal permits, in addition to other items related to the issuance of initial permits and permit modifications. We are also revising TOPS to track certain other data elements consistent with an agreement with the Office of Management and Budget (OMB), resulting from a Performance Assessment Rating Tool (PART) review. Based on the recent PART review, EPA has established national targets for timely issuance of initial permits and significant modifications and the revisions to TOPS will track information relevant to these targets.

How is the data reported and who enters it into TOPS?

In the past, Permitting Authorities have provided administrative tracking data to EPA Regions every 3 months using various formats. The EPA Regions entered the data into TOPS.

EPA has developed a reporting form that identifies all of the revised data tracking elements for TOPS. EPA encourages Permitting Authorities to use this form, as it will promote data consistency across EPA Regions. For those Permitting Authorities that do not use the form, they should nevertheless refer to the form to ensure that they are reporting to EPA all of the revised data elements. See below for the time-line for submitting the new TOPS data elements.

Is there a transition plan for gathering this new data from Permitting Authorities?

EPA acknowledges that Permitting Authorities may have to update or revise their internal administrative tracking systems in response to the revisions to TOPS (e.g., certain Permitting Authorities may need to start tracking the expiration dates of permits). EPA hopes that most Permitting Authorities will begin collecting the new TOPS data by July

2006, so that complete data for the July-December 2006 period will be available in January 2007. Permitting Authorities that provide the new TOPS information for this 6-month period will no longer have to submit the previous TOPS data on a 3-month basis.

Permitting Authorities unable to provide new TOPS data for the July-December 2006 period may continue to submit old TOPS data for the July-September 2006 and October-December 2006 periods. EPA requests that all Permitting Authorities report the new TOPS data for the January-June 2007 reporting period. EPA Regions will continue to enter the data into TOPS.

What is EPA's authority to ask States for this information?

EPA implemented the TOPS system pursuant to Title V of the Clean Air Act and its implementing regulations (40 CFR Part 70), which authorize EPA to perform oversight activities for approved operating permit programs. Specifically, 40 CFR 70.10(b) provides that approved operating permit programs shall be conducted in accordance with the requirements of 40 CFR Part 70 and of any agreements between the Permitting Authority and the Administrator concerning operation of the program. Section 70.10(b) further authorizes EPA to take certain actions if it concludes that a Permitting Authority is not adequately administering and enforcing its part 70 program. Section 70.4(j) also provides that information obtained or used in the administration of an operating permit program must be available to EPA upon request without restriction and in a form specified by the Administrator, including computer readable files to the extent practicable.

Were Permitting Authorities involved in the revision process?

Permitting Authorities were involved in the revision process. We first informed Permitting Authorities of the need to revise the administrative tracking data in TOPS in March of 2005 through STAPPA/ALAPCO. In January of 2006, we provided a draft of the data collection form to STAPPA/ALAPCO, and asked for comments. We received several comments. Most comments were supportive, but several made specific requests for revisions or clarifications of the data elements. We have prepared a response to comments document to address the comments received.

What is PART and how does this relate to TOPS?

The PART is an accountability tool used by OMB to drive federal program improvement. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART review for part 70, completed in December 2005, resulted in agreement for EPA to provide a national percentage of timely issued initial permits and significant modifications. EPA will be calculating these national percentages, based on the information provided in TOPS. Note that for fiscal year 2007 the national target for the percentage of timely issued initial permits is 87% and for timely issued significant modifications is 94%. "Timely" in this context refers to the statutory and regulatory

requirements for Permitting Authorities to issue or deny permits within 18 months of receipt of an administratively complete permit application.

Will additional changes be necessary in the future?

We may need to make adjustments to our requests for tracking data as we gain implementation experience. Also, additional PART measures for the national permit program may be necessary as there are on-going discussions with OMB on appropriate PART measures. If such additional measures are necessary, we may need to revise the TOPS data elements further. If this occurs, we intend to work with the EPA Regions and Permitting Authorities to facilitate any such changes.

FINAL EPA RESPONSE TO STAPPA/ALAPCO COMMENTS ON DRAFT REPORTING FORM

TITLE V OPERATING PERMITS SYSTEM (TOPS) REVISION PROJECT

U.S. EPA Regional &
OAQPS Workgroup
To Revise TOPS

August 16, 2006

Introduction

The Title V Operating Permit System (TOPS) is a computer database that EPA uses for Title V program oversight purposes. State and local permitting authorities ("Permitting Authorities") currently provide information to EPA Regions four times a year, and the EPA Regions enter that information into TOPS. The purpose of TOPS is to track permitting authority progress in issuing part 70 operating permits. The program has been in place for over a decade.

In February 2006, EPA proposed revisions to TOPS and circulated those revisions to interested stakeholders. This document contains responses to the comments that stakeholders raised concerning the February 2006 draft proposed revisions.

We are making the revisions to TOPS at this time because Permitting Authorities have issued most of the first-round initial operating permits, upon which the current version of TOPS focuses. Those first-round permits are starting to expire and today's revisions will enable the Agency to track the issuance of renewal permits, in addition to other items related to the issuance of initial permits and permit modifications. We are also revising TOPS to track certain other data elements consistent with an agreement with the Office of Management and Budget (OMB), resulting from a Performance Assessment Rating Tool (PART) [1] review. Based on the recent PART review, EPA has established national targets for timely issuance of initial permits and significant modifications and the revisions to TOPS will track information relevant to these targets.

EPA implemented the TOPS system pursuant to Title V of the Clean Air Act and its implementing regulations (40 CFR Part 70), which authorize EPA to perform oversight activities for approved operating permit programs. Specifically, 40 CFR 70.10(b) provides that approved operating permit programs shall be conducted in accordance with the requirements of 40 CFR Part 70 and of any agreements between the Permitting Authority and the Administrator concerning operation of the program. Section 70.10(b) further authorizes EPA to take certain actions if it concludes that a Permitting Authority is not adequately administering and enforcing its part 70 program. Section 70.4(j) also provides that information obtained or used in the administration of an operating permit program must be available to EPA upon request without

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[1] *The Performance Assessment Rating Tool (PART) is an accountability tool used by OMB to drive federal program improvement. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART review for part 70 was completed in December 2005. As a result of that review, EPA agreed to provide OMB a national percentage of timely issued initial permits and significant modifications. EPA will be calculating these national percentages, based on the information provided in TOPS. For fiscal year 2007, the national target for the percentage of timely issued initial permits is 87% and for timely issued significant modifications is 94%, pursuant to agreement with OMB.*

restriction and in a form specified by the Administrator, including computer readable files to the extent practicable.

A. General

1. A Permitting Authority in EPA Region 4 commented that they will need to change their automated Quarterly Title V Permitting Report in their database to report the data elements specified in the proposed TOPS revisions. There are numerous permitting offices in the state that use the same database. As a result, it will take some time for computer systems programming to implement this request statewide.

Response: EPA acknowledges that Permitting Authorities may have to update their database queries in response to the changes to TOPS. Note, however, that the revised TOPS data elements are based on basic part 70 permit issuance milestones that all Permitting Authorities should already be tracking.

Permitting Authorities that are able to provide the EPA Regional Offices the new TOPS information for the July-December 2006 reporting period should no longer submit quarterly information for the previous TOPS elements. For these Permitting Authorities, the last quarterly report submitted under the old TOPS system will be for the April-June 2006 reporting period. Permitting Authorities that are not able to provide the new TOPS information for the July 2006-December 2006 reporting period should submit the old TOPS information for the July-September 2006 and October-December 2006 quarterly reporting periods. To facilitate program oversight, EPA requests that all Permitting Authorities report the new TOPS elements beginning with the January-June 2007 reporting period.

2. A Permitting Authority in EPA Region 4 commented that, to address permit backlog concerns, it might be helpful to draft a plan to expedite issuance. They recommend that any such plans be drafted between the EPA Regions and state and local agencies.

Response: EPA agrees that, once Permitting Authorities begin submitting the revised TOPS data, it may be appropriate for Permitting Authorities and EPA Regional Offices to develop permit issuance plans to address any backlog concerns.

B. Data Element 1: Outstanding Permit Issuance

1. A Permitting Authority in EPA Region 5 suggested that this data element be static for permitting authorities that either had no commitment (they would indicate "Not applicable"), or have met the commitment (e.g., indicating the date completed). Permitting Authorities that have not completed the commitment should indicate "X of XXX commitment applications remaining".

Response: EPA has revised data element 1 to add the date of "commitment" completion. We clarify that for purposes of TOPS reporting, the term "commitment," as used in the revised tracking form, means any agreement(s) by the Permitting Authority concerning completion dates for initial permit issuance. For example, a letter from the Permitting Authority to EPA, indicating the number of initial

permits that will be issued within a specified time period, is a "commitment" for purposes of this data element. Permitting Authorities that do not have commitments would enter "Not Applicable" in 1.a and 1.b.

C. Data element 2: Total Current Part 70 Universe and Permit Universe

1. Data element 2.a. A Permitting Authority in EPA Region 5 raised several detailed questions, including requests for clarification of when to count sources (based on permit application due dates), clarification of sources no longer subject to part 70; and additional detailed scenarios.

Data Element 2.a. A Permitting Authority in EPA Region 5 agrees that clarification is needed regarding the "known sources that should have submitted a Part 70 application, but did not".

Response: EPA has changed this data element to clarify its intent by focusing less on the varying part 70 program application requirements. In the proposed revisions to TOPS, EPA proposed that Permitting Authorities count part 70 sources in this element only after the sources' part 70 permit applications become due. EPA chose this benchmark because Permitting Authorities may not have information pertaining to sources' part 70 status until the sources submit the applications, which in many cases will be 12 months after sources become subject to part 70. The revised data element now includes all sources subject to the Permitting Authority's approved part 70 program applicability requirements (i.e., requirements equivalent to 40 CFR 70.3). However, the instructions acknowledge that Permitting Authorities' data may be limited prior to the sources' submission of part 70 applications.

Accordingly, element 2 is intended to capture all sources currently subject to part 70, based on information available to the Permitting Authority. EPA expects that the majority of sources identified in element 2 will still be based on the Permitting Authority's application and permit tracking information. However, the Permitting Authority should count all part 70 sources it has identified, regardless of sources' application or permit status. For example, if the Permitting Authority is aware of new part 70 sources that are not yet required to submit part 70 permit applications, those sources should be included in data element 2 as well.

In addition, EPA has added examples of "sources no longer subject to part 70," in the chart, such as sources that have shut down, become natural minors, or become synthetic minors, and do not have an active part 70 permit.

2. Data element 2.b. A Permitting Authority in EPA Region 5 provided several detailed scenarios, asking EPA to further clarify this subset of the part 70 source universe.

Data element 2.b. A Permitting Authority in EPA Region 5 and a Permitting Authority in EPA Region 6 requested that EPA clarify the term "expected to obtain a synthetic minor restriction". One Permitting Authority stated that they do not separately track new applications that may include requests for minor source limits.

Data Element 2.b. Two Permitting Authorities in EPA Region 5 requested clarification of the phrase in the second bullet "synthetic minor restrictions have expired."

Response: EPA has revised this data element to further clarify it. The purpose of this data element is to identify the number of part 70 sources that are seeking synthetic minor restrictions to avoid the applicability of 40 CFR Part 70 (see 40 CFR 70.3), but they have not yet received such restrictions, and the part 70 program's application due dates have passed. The sources are therefore still subject to Part 70's application and permitting requirements. Some Permitting Authorities may have a number of sources in this situation, while other Permitting Authorities may not. Permitting Authorities may also wish to provide additional information in data element 9 to address any specific situations and to describe related state program requirements, as needed.

Please note that, if the Permitting Authority's part 70 applications do not readily identify sources seeking synthetic minor restrictions in lieu of a part 70 permit, the Permitting Authority may include those sources in 2.a, and need not break them out in 2.b. However, there may be instances where the Permitting Authority has knowledge - separate and apart from part 70 permit applications - that a source is seeking synthetic minor restrictions. In such instances, the Permitting Authority should report this information in data element 2.b. EPA believes it will not be unduly burdensome to calculate 2.b because Permitting Authorities need not determine the part 70 applicability implications for all synthetic minor requests. Permitting Authorities will only have to consider requests that are not acted upon before the part 70 application due date.

EPA has also clarified the meaning of "sources whose synthetic minor restrictions have expired" by noting that these include sources with no synthetic minor restrictions currently in place, even though they may be eligible for such restrictions. For the purposes of this data element, the Permitting Authority should include in data element 2.b sources that previously had limits to avoid part 70 applicability, no longer have any such limits (even though they may be eligible), and are now required to submit a part 70 application. Sources with expired synthetic minor limits that apply for part 70 permits because they are no longer seeking synthetic minor restrictions should be counted in 2.a, not 2.b. Whether or not a Permitting Authority has any sources in this situation will depend on the Permitting Authority's mechanisms for limiting part 70 applicability, such as whether synthetic minor limits expire, whether the program allows synthetic minor permit terms to extend if the source submits a timely renewal application, whether the permitting authority has other stop-gap mechanisms to avoid a lapse in synthetic minor restrictions, etc.

3. Data element 2.d. A Permitting Authority in EPA Region 5 requested that EPA clarify the term "expected" in the data element.

Data element 2.d. A Permitting Authority in EPA Region 5 noted that it is currently not set up to track this information automatically for permits issued to sources having separate source IDs. The Permitting Authority has quite a few sources where multiple permits are issued to

the same source under separate IDs including but not limited to steel mills, their contractors, and some utilities. This could require a significant manual effort.

Response: For Permitting Authorities that issue separate part 70 permits to single sources, and also track these permits separately, the source universe identified in data element 2 may be smaller than the permit-based tracking information in subsequent data elements. For example, a permitting authority may have a total part 70 source universe of 200, but those 200 sources may be covered by a total of 250 individual permits. To help reconcile any such discrepancies, data element 2.d provides a place to identify the permitting authorities' total permit universe.

The transition period from the old TOPS tracking system to new TOPS, discussed in A.1 above, should provide Permitting Authorities sufficient time to adjust current tracking systems. Permitting Authorities that issue separate part 70 permits to single part 70 sources should be able to ascertain both the number of part 70 sources, as well as the associated number of part 70 permits. However, if the Permitting Authority issues multiple permits to single sources on the same time line, i.e., they are issued simultaneously and have identical 5-year permit terms, and the Permitting Authority tracks and reports these multiple permits as a single permit, then the Permitting Authority may enter "not applicable" in element 2.d. In addition, EPA has revised the element to remove the term "expected", as some Permitting Authorities found the term confusing.

D. Data element 3: Total Active Part 70 Permits

1. Data element 3. A Permitting Authority in EPA Region 5 provided several detailed scenarios, asking EPA to further clarify this data element, particularly with respect to extended permits.

Data element 3. The Permitting Authority's comments on element 2.d regarding tracking multiple permits issued to single sources also applies to element 3.

Response: EPA believes that the current description of this data element, as well as the description of extended permits in data element 6.b, is sufficient.

However, we have further clarified that Permitting Authorities should only count currently active permits. Permitting Authorities should not count part 70 permits that are no longer in effect, including, for example, sources that have shutdown, sources that have obtained permits with synthetic minor restrictions such that the sources no longer meet the applicability criteria of 40 CFR Part 70, etc. EPA notes that the procedures for rendering part 70 permits no longer effective may vary, depending on the specific Permitting Authority's requirements.

See response C.3 above addressing the comment of the *Permitting Authority from EPA Region 5.*

E. Data Element 4: Timeliness of Initial Permits

1. Data Element 4. On the February 2006 STAPPA conference call, several Permitting Authorities expressed concern regarding the need for this data element.

Response: These data elements will allow EPA to track the annual measures that EPA and OMB agreed to in the PART review of the title V program completed in December 2005. The PART review is an OMB requirement for each federal agency (over 700 agencies have been "PARTED" to date). This review requires both long-term and annual measures to track success of the program in meeting its goals. Although the long-term measures are still under development, the annual measures are included in the TOPS system to facilitate reporting and handling of the data.

2. Data Element 4.a. Several Permitting Authorities requested clarification regarding whether "complete application" referred to administrative or technical completeness.

Response: EPA has modified these data elements to refer to an "administratively complete application." Section 70.5(a)(2) provides that the operating permit program include "criteria and procedures for determining in a timely fashion when applications are complete." Pursuant to 40 CFR 70.7(a)(4), the Permitting Authority must "promptly provide notice to the applicant of whether the application is complete." Section 70.7(a)(4) further provides that "[u]nless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of the application, the application shall be deemed complete." The 18 month time period for processing permit applications begins upon receipt of an administratively complete application. See, e.g., 70.7(a)(2); 57 FR 32272 (July 21, 1992). In July 1995, EPA issued guidance on the issue of completeness determinations. See White Paper for Streamlined Development of Part 70 Permit Applications (White Paper 1), July 10, 1995, at 19-20. EPA refers Permitting Authorities to that guidance which addresses administratively complete applications.

Some Permitting Authorities have expressed concern that the need for additional information from an applicant after an application is deemed administratively complete can affect permit issuance rates. If this is an issue, Permitting Authorities may choose to provide information in data element 9 pertaining to the initial permits that were not finalized within 18 months of receipt of an administratively complete application due to requests for additional information. For purposes of reporting under these TOPS data elements, requests for additional information made after a finding of completeness (or after an application is deemed complete under 40 CFR 70.7(a)(4)) do not restart the 18-month clock.

3. Data Elements 4.a and b. A Permitting Authority in EPA Region 5 requested additional clarification regarding when to count applications as "initial", for sources that had previously been issued state only or synthetic minor permits, or for sources whose previous permits had lapsed.

Response: For TOPS tracking purposes, initial permits are permits that are issued to any source that has become subject to part 70 for the first time, or any source that comes back into the part 70 program

after a period of not being subject. If a previous permit has lapsed, the part 70 applicability status of the source--not the status of the previous permit--should be used to determine whether the subsequently issued permit is an initial or a renewal part 70 permit. For example, if a source's previous part 70 permit expired because the source did not submit a timely and complete renewal application, the subsequently issued part 70 permit is still considered a renewal permit because the source remained subject to part 70. Another example is where a source has an expired synthetic minor permit and applies for a part 70 permit. For TOPS purposes, this application would be considered an "initial" application. Permitting Authorities should determine the part 70 status of sources when calculating the TOPS data elements. Permitting Authorities may also wish to provide additional information in data element 9 to address any specific situations and to describe related state/local program requirements, as needed.

4. Data Element 4.c. A Permitting Authority in EPA Region 5 suggested removing the percentage calculation element because it is irrelevant and may be misinterpreted as representing the overall ability of a permitting authority to adequately implement the Part 70 program. The Permitting Authority agrees that data elements 4.a and 4.b are useful for identifying the split of permits that did and did not meet the processing deadline.

Response: EPA agrees that it is not necessary for Permitting Authorities to provide the percentage calculation of initial permits issued timely within the 6 month reporting period, and has removed data element 4.c. However, please note that EPA has agreed to provide OMB a national percentage of timely issued initial permits as part of the PART review process. Therefore, EPA will be calculating the national percentage, based on the information Permitting Authorities provide in data elements 4.a and 4.b. Note also that the national target for the percentage of timely issued initial permits has changed from 100% to 87% for fiscal year 2007, pursuant to discussions with OMB.

F. Data Element 5: Total Outstanding Initial Part 70 Applications and Synthetic Minor Requests

1. Data Element 5.a. Several Permitting Authorities requested clarification regarding whether "complete application" referred to administrative or technical completeness.

Data Element 5.a. A Permitting Authority in EPA Region 5 provided several detailed questions, asking EPA to further clarify this data element.

Response: EPA has revised this data element to refer to "administratively complete" initial Part 70 permit applications. See the discussion in section E.2 above. In addition, EPA has revised the element to remove the phrase "sources expected to obtain a part 70 permit", as some Permitting Authorities found the term "expected" confusing. EPA also removed a redundant sentence in the information section of the chart.

The purpose of this data element is to identify the initial part 70 permit application backlog. As discussed in section E.3 above, for TOPS purposes, initial applications are applications for sources that

are subject to part 70 for the first time, or any source that comes back into the part 70 program after a period of not being subject. Due to the structure of the commenter's permitting program, this Permitting Authority may be grouping part 70 and other types of permits together in determining "initial" or "renewal" status. States should determine the part 70 status of sources when calculating the TOPS data elements.

The initial part 70 permit application backlog element only tracks pending applications that have not yet been acted on. For example, once a Permitting Authority issues a part 70 permit-even if that action occurred more than 18 months after receipt of an administratively complete application--that application is no longer counted in this data element.

2. Data element 5.b. A Permitting Authority in EPA Region 5 commented that definition of the sources captured by this data element may need some clarification. The Permitting Authority suggests that applications submitted before 1997 be reported separately from more recent applications received more than 18 months ago.

Data element 5.b. A Permitting Authority in EPA Region 6 commented that they do not categorize minor source permit applications into those that would/would not be Title V without permit restrictions.

Data element 5.b. A Permitting Authority in EPA Region 5 provided several detailed questions, asking EPA to further clarify this data element.

Response: EPA has decided to remove data element 5.b. This element was intended to capture the synthetic minor application backlog for part 70 sources seeking to avoid the part 70 program. However, EPA found it difficult to define this element in a way that would adequately address Permitting Authorities' varied programs, and as a result many found the data element confusing. Data element 2.b still captures information regarding sources seeking to avoid part 70, which EPA will use for national program oversight. Permitting Authorities should be prepared to provide additional information regarding these sources, if necessary for individual program oversight.

3. Data element 5.d. A Permitting Authority in EPA Region 5 commented that there are so many variables in determining the different time clocks for the State's combined New Source Review/part 70 permit issuance timelines, it would be complicated to report on this data element.

Data element 5.d. A Permitting Authority in EPA Region 5 suggested striking this metric. To ensure consistency and reduce workload and confusion, the State suggests all Permitting Authorities report consistently nationwide based on the 40 CFR Part 70 requirements.

Data element 5.d.2. A Permitting Authority in EPA Region 6 commented that the synthetic minor restriction number would always be zero for that Permitting Authority, as addressed in section 2.b comments above.

Response: EPA agrees that reporting based on Permitting Authority-specific timelines may be difficult to manage as a national TOPS data

element due to the many varied requirements across the country. Although EPA is removing this data element from TOPS, EPA may nonetheless request this information as necessary for individual part 70 program oversight.

G. Data Element 6: Outstanding Renewal Permit Actions

1. Data Elements 6.a and 6.b. A Permitting Authority in EPA Region 5 asked for clarification on the word "addressed," when referring to "expired permits addressed through consent orders or other enforcement mechanisms."

Data Elements 6.a and 6.b. A Permitting Authority in EPA Region 5 asked for clarification regarding determining whether an application is timely, i.e., application received date vs. postmark date.

Response: These requirements may vary, depending on factors outside of the part 70 program. For purposes of TOPS reporting, Permitting Authorities should count all expired permits for those sources that meet the applicability requirements of 40 CFR 70.3, even if a source is still complying with the expired permit for other purposes, such as to meet the terms of a consent order. With respect to determining timely application status for purposes of TOPS reporting, Permitting Authorities should consider relevant state administrative requirements, such as considering postmark dates, when making this determination.

2. Data Element 6.a. A Permitting Authority in EPA Region 6 commented that it does not track this information, but checks for expired permits through annual inspections for all part 70 sources. The Permitting Authority can provide the number of enforcement actions for expired permits.

Data Element 6.a. A Permitting Authority in EPA Region 5 commented that this element is complicated because it requires identifying the null case where no application has been received. The Permitting Authority also requested clarification on several detailed permitting scenarios.

Response: EPA acknowledges that Permitting Authorities may have to update their tracking systems in response to the changes to TOPS. Permitting Authorities should be able to determine permit expiration dates for each permit. This should not be unduly burdensome, as most part 70 permits have a fixed 5 year term. Permitting Authorities that are not currently tracking permit expiration dates may need to either add this tracking element or they may be able to calculate it based on permit issuance dates.

EPA disagrees that tracking expired permits is complicated. Because most permits have a fixed 5 year term, it is a straightforward matter to determine when the 5 year term has ended. Further, because Permitting Authorities should also be tracking permit renewal applications, it should not be difficult to remove from a preliminary count of potentially expired permits those sources that have submitted timely and administratively complete renewal applications.

The Region 5 *Permitting Authority's detailed questions again pertain to the interrelated structure of their permitting programs. Permitting*

Authorities should determine the part 70 status of sources when calculating the TOPS data elements. For example, this Permitting Authority refers to part 70 applications for a source previously subject to a state permit program as renewal applications. For purposes of TOPS, these are considered initial part 70 applications and would not be counted in this data element.

3. Data element 6.b. A Permitting Authority in EPA Region 6 commented that it does not track extended permit information, and uses annual inspections to assure timely renewals.

Data element 6.b. A Permitting Authority in EPA Region 5 requested clarification on several detailed permitting scenarios.

Response: EPA acknowledges that Permitting Authorities may have to update their tracking systems in response to the changes to TOPS. In addition to TOPS tracking, Permitting Authorities should be able to identify extended part 70 permits for the purposes of managing their own permit issuance workloads and priorities. Once Permitting Authorities determine the expired permit information for element 6.a, they will also be able to identify the extended permit information in element 6.b.

The Region 5 Permitting Authority's detailed questions again pertain to the interrelated structure of their permitting programs. Permitting Authorities should determine the part 70 status of sources when calculating the TOPS data elements. EPA will work with this Permitting Authority if necessary to address any outstanding questions.

H. Data Element 7: Timeliness of Significant Modifications

1. Data element 7. Several Permitting Authorities requested clarification regarding administrative versus technical completeness.

Response: As addressed above in section E.2, EPA has clarified this data element to refer to administrative completeness.

2. Data element 7.c. A Permitting Authority in EPA Region 5 suggested striking the percentage timely calculation because it is irrelevant and may be misinterpreted as representing the overall ability of a permitting authority to adequately implement the Part 70 program.

Response: EPA agrees that it is not necessary for Permitting Authorities to provide the percentage calculation of significant modifications issued timely within the 6 month reporting period, and has removed data element 7.c. However, please note that EPA has agreed to provide OMB a national percentage of timely issued significant modifications as part of the PART review process. Therefore, EPA will be calculating the national percentage, based on the information Permitting Authorities provide in data elements 7.a and 7.c. Note that the national target for the percentage of timely issued significant modifications has changed from 100% to 94% for fiscal year 2007, pursuant to discussions with OMB.

Also see the response below in section I.2, regarding an addition to data element 7.

I. Data Element 8: Outstanding Significant Permit Modifications

1. Data element 8. Several Permitting Authorities requested clarification regarding administrative versus technical completeness.

Response: As addressed above in section E.2, EPA has clarified this data element to refer to administrative completeness.

2. Data element 8.b. A Permitting Authority in EPA Region 5 suggested striking this metric, consistent with their comments on element 5.d. To ensure consistency and reduce workload and confusion, they suggest all Permitting Authorities report based on the 40 CFR Part 70 requirements.

Data element 8.b. A Permitting Authority in EPA Region 5 requested clarification regarding how to calculate their specific deadlines for merged New Source Review/part 70 applications. In addition, the Permitting Authority requested clarification regarding whether EPA wants information pertaining to the 40 CFR 70.7(e)(4)(ii) requirement that the majority of significant permit modification reviews be completed within 9 months.

Response: EPA agrees that reporting based on Permitting Authority-specific timelines may be difficult to manage as a national TOPS data element due to the many varied requirements across the country. Although EPA is removing this data element from TOPS, EPA may nonetheless request this information as necessary for individual part 70 program oversight.

EPA agrees that it would be useful to collect data pertaining to the 9 month significant permit modification provision in 40 CFR 70.7(e)(4)(ii). We have expanded data element 7 to capture the number of significant modifications finalized during the 6 month reporting period that were issued within 9 months. Because data element 7 already requires Permitting Authorities to calculate similar significant modification data, this addition is not overly burdensome. Note, however, that the 9 month issuance data is not a PART reporting requirement.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

AUG 16 2006

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Revisions to Data Used for Title V Administrative Tracking (TOPS)

FROM: for William T. Harnett
Director, Air Quality Policy Division (C504-01)

TO: Regional Air Division Directors

Last year, an EPA work group, led by Region 5, was formed and tasked with reviewing and updating the data collected and used for tracking progress of the Title V operating permits program. The purpose of this memorandum is to transmit the revised data elements that resulted from the work group efforts. The collected data is entered into an EPA database, the Title V Operating Permits System (TOPS) database, and used to track State and Local Agency progress in implementing operating permits programs under 40 CFR Part 70. We are doing this to ensure we maintain adequate data for program oversight, including for reporting progress to the Office of Management and Budget (OMB) on meeting certain national goals for part 70 program administration established during OMB's Performance Assessment Rating Tool (PART) review. The Office of Air Quality Planning and Standards (OAQPS) are in the process of revising the TOPS database to include the revised data elements that we collect on issuance of initial permits, permit renewals, and permit modifications. In addition, we are changing the data reporting frequency from once a quarter to twice a year.

I am asking EPA Regions to transmit the attached documents to each of their State and local permitting agencies and to work with them to collect the new data. As you have done in the past, we will need Regional assistance in gathering the data from State and local agencies and entering the data into TOPS. We expect the new data to be reported for the first time in January of 2007, (covering the July-December 2006 period), although we are making allowances for State and local agencies that cannot meet this deadline (described as a "transition plan" below).

State and local permitting authorities were involved in the TOPS revision process. We first informed State and local agencies of the need to revise TOPS in March 2005 through STAPPA/ALAPCO. In January 2006, we provided a draft of the reporting form

to STAPPA/ALAPCO, and we asked for their input. We received several comments. Most comments were supportive, but several made specific requests for revisions or clarifications of the data elements. We have prepared a response to comments document to address the comments received.

Attached are three documents that provide additional information on these changes. First, a Question and Answer (Q&A) document providing detailed background information, including a transition plan for State and local agencies that need more time to start reporting the revised TOPS data (e.g., those that need to re-program State computer systems). Second, a reporting form that State or local agencies may use to report the data to EPA Regions, which provides detailed explanations of each data element. Third, a Response to Comments document, describing State and local agency concerns on an earlier draft of the TOPS reporting form and EPA responses, including revisions and clarifications made in response to those concerns.

If you have general questions about TOPS, please call Jeff Herring (OAQPS) at (919) 541-3195. For more specific questions about the TOPS workgroup or the definitions of the new data elements, please call Beth Valenziano (EPA Region 5) at (312) 886-2703.

Attachments