

July 21, 1994

MEMORANDUM

SUBJECT: Transition to Funding Portions of State and Local Air Programs with Permit Fees Rather than Federal Grants

FROM: Mary D. Nichols /s/
Assistant Administrator
for Air and Radiation

TO: Regional Administrators
Regions I - X

I expect that during FY 1995 we will give interim or final approval to many of the state and local operating permit programs required by Title V of the Clean Air Act. The fees that result from implementation of the permit programs will significantly alter how, and to what degree, state and local agencies use federal grant funds awarded under section 105 of the Act. The agencies will no longer be able to use federal grant funds for permit program activities. Also, the agencies cannot use Title V fees to provide the nonfederal matching funds required by section 105.

In many instances regional offices will need to negotiate state and local grant workplans and award grants for FY 1995 well in advance of the Title V program approvals. EPA and grant recipients will need to develop operating procedures that will facilitate a smooth transition from programs that now are funded largely by federal grants and state and local general revenue funds to programs with major components that are funded with Title V fees. I have summarized below general guidance to facilitate this program transition. I have also attached a series of questions and answers that provide additional clarification on certain aspects of the guidance including when grant funds can no longer be used for Title V-related purposes.

Relationship of Title V Fees and Section 105 Grants

After a thorough review, EPA's General Counsel concluded that Title V operating permit fees cannot be used to meet the cost-sharing requirements of the section 105 air grant program.

- Section 502 of the Clean Air Act requires that sources subject to Title V permit requirements pay an annual fee, or the equivalent over some other period, to the applicable permitting authority. The fees the permitting authority collects must be sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the Title V operating permit program.
- Any fee required to be collected under Title V must be utilized solely to cover the reasonable (direct and indirect) costs of the Title V program.
- Since section 502 requires that Title V program costs be funded solely from the fees collected and that the fees collected be used only for that purpose, Title V permit program costs cannot be funded through a section 105 grant and these costs are not allowable section 105 grant costs.
- In order to qualify for cost-sharing, the costs incurred must be allowable costs under the EPA grant. Since Title V program costs are not allowable section 105 grant costs, the fees used to pay for them cannot be used to meet the cost-sharing requirements of section 105.

Differentiation of Program Activities

Although the Clean Air Act outlines expected Title V program activities, a state or local agency has some flexibility in how it designs its Title V program and fee schedule. As a result, the specific activities that are grant-eligible and those that are fee-eligible may vary among jurisdictions. EPA issued clarifying fee guidance on August 4, 1993 and a grant-fee matrix of activities on May 31, 1994. I have attached a copy of the matrix.

- Regional offices and grant recipients should use the matrix as an information document and general guide and not as a prescriptive checklist for differentiating between grant-eligible and fee eligible activities. In some

instances, the same activity could fall in either category, depending on the design of the state or local Title V program. Further, the nature and extent of Title V and section 105 program activities can be expected to change over time.

- Until a state or local agency's Title V program is approved by EPA, that agency has the option of using section 105 grant funds to assist in the development of its Title V program.

When Can Section 105 Grants No Longer be Used for Title V-Related Purposes?

Once EPA has given interim or final approval to the Title V operating permit program of a state or local agency:

- The agency may no longer use section 105 funds for direct or indirect Title V activities included in the EPA-approved Title V program.
- The agency must clearly identify in its grant workplan which air program activities will continue to be funded with section 105 funds.
- If a section 105 grant has been awarded that provides funding for activities that are part of the approved Title V program and no longer grant-eligible, the agency must revise its grant workplan to eliminate the Title V activities and, if appropriate, reinvest the freed-up grant funds in other grant-eligible program areas.

Defining Acceptable Content and Procedures for the FY 1995 Grant Workplan

Many regional offices and section 105 grant applicants have expressed some uncertainty about the contents of grant workplans for FY 1995 where the state or local agency expects approval of a Title V program during the fiscal year. In these instances, regional offices may follow one of several acceptable approaches.

Approach A- Status Quo

- The grant applicant develops a grant workplan that shows the full range of air

program activities planned during the course of the year. All sources and amounts of funding are identified including the agency's operating permit fees.

- Upon approval (or in anticipation of approval) of its Title V program, an agency differentiates its Title V-related activities from the balance of its air program and negotiates their removal from the grant. Regions and recipients also identify the revised level of nonfederal support remaining for matching the federal grant as a result of the removal of Title V-related resources.

Approach B- Expanded Program

- As in approach A, a full activity workplan is developed. This approach, however, expands the initial workplan submission to identify non-Title V program activities for reinvestment or increased investment once the Title V program is approved, the Title V activities removed, and grant funds are freed.
- Investments and reinvestments would be subject to negotiation with the Region. If the workplan has identified the changes in activities and the retargeting of resources explicitly and accurately, a renegotiation of the grant may not be necessary.

Approach C- Incremental

- Where early Title V program approval is anticipated, the applicant submits a grant workplan which reflects only those air program activities which are clearly section 105 eligible. EPA would provide an incremental award reflecting support for only those activities.
- Upon approval (or in anticipation of approval) of its Title V program, the applicant renegotiates its award (or an additional award) with EPA to identify supplemental areas of new or increased investment.

In all of the above approaches, every grant awarded to agencies with existing or potential Title V responsibilities must be conditioned to provide that no activities that are part of an approved Title V program will be funded with section 105 funds.

Recomputing the Maintenance of Effort

The Clean Air Act requires that all section 105 grantees must provide at least the same level of nonfederal contribution as for the previous year. This "maintenance-of-effort" or MOE level may include funding for activities that will become part of the Title V program, upon EPA approval. Once an agency has accounted for the removal of its Title V activities and resources from its section 105 grant workplan and agreement:

- The agency may request the establishment of a new MOE level based upon all the remaining air program activities that are recurrent in nature. I have attached an opinion from the Office of General Counsel that provides the basis for allowing a revised MOE level.
- For requests that would lower the MOE, EPA will consider only those revisions that are directly attributable to the impact of Title V.
- However, an agency may still request an adjustment of its MOE because of a nonselective reduction in state or local funding (i.e., a reduction that applies to all state or local programs, not just to the air program).

Satisfying the Nonfederal Match Requirement

Some state and local agencies anticipated using Title V fees to provide the nonfederal matching funds for section 105 grants and have no alternative sources of funds to meet the required 40 percent nonfederal matching requirement. For those instances where an agency is no longer able to provide the nonfederal contribution level for a section 105 grant:

- The agency may request a temporary waiver of the match requirement under rules currently under development by EPA. I anticipate that these rules will be issued before EPA's approval of the Title V programs.
- EPA may reduce the level of the federal award accordingly.

Treatment of Ramp-Up Fees

Many jurisdictions have increased their existing fees in order to cover the costs of developing an approvable Title V program. (EPA has also been supporting and

encouraging these efforts since FY 1991 through the award of section 105 grants.) Fees generated in advance of Title V program approval but used for development of the Title V program are generally termed "ramp-up" fees. Depending on the circumstances, in individual cases this revenue may be used towards grant match or to subsidize an agency's post-approval Title V fee schedule. Specifically-

- Ramp-up fees that are generated as part of a grant agreement should be counted towards an agency's grant matching and MOE requirements.
- Ramp-up fees that are generated apart from a grant agreement but in advance of Title V approval may, at the discretion of the jurisdiction, be used to subsidize an agency's approved Title V fee schedule if certain criteria are met- the permitting authority must assure that the fees were obtained from sources subject to Title V requirements; were collected or were to have been collected over for a period subsequent to enactment of the 1990 amendments to the Clean Air Act; are identifiable and available for unrestricted use; and are to be quantified and incorporated in the agency's four-year demonstration of Title V fee adequacy. This revenue cannot be used for grant cost-sharing purposes.
- At its discretion, a jurisdiction may also use ramp-up revenue which was generated apart from a grant agreement, and has been accumulated prior to Title V approval, for grant matching purposes. Such funds, if used for grant matching, can only be expended on activities allowable in the grant workplan. Further, these same funds cannot also be used to cover the costs of an approved Title V program.

Treatment of Additional Fee Revenue

The August 4, 1993 guidance on state fee schedules for operating permits programs under Title V notes that fee revenue needed to cover the reasonable direct and indirect costs of the Title V permits program may not be used for any purpose except to fund the Title V permits program. The guidance further notes, however, that Title V does not limit a jurisdiction's discretion to collect fees pursuant to independent state authority beyond the minimum amount required by Title V. Such funds may, at the discretion of the jurisdiction, be used for grant matching purposes. These funds, if used for grant matching, can be expended only on activities allowable in the grant workplan.

Ensuring the Fiscal Integrity of Grant Operations

Permitting authorities and grant recipients will need to ensure the fiscal integrity of their grant and fee operations in order to avoid an inappropriate commingling of funds. For grants, EPA will rely upon the provisions in 40 CFR 31 which covers standards for grantee financial management systems including:

- requirements that procedures for expenditure and accounting of funds be well documented and enable the clear tracing of funds. This includes adequate financial reporting, accounting records, internal controls, and budget controls.
- The recipient's workplan must comply with all applicable federal statutes and regulations.

EPA expects that each agency, if it has not already done so, will update and maintain a financial management system to accomplish the objectives noted above. This includes the necessary differentiation of air grant-eligible activities and expenditures from those related to Title V. This should occur no later than at the time of approval of the Title V program.

As I noted above, I have attached a series of questions and answers to provide additional, more detailed guidance on some of the issues outlined above. I also will provide guidance on any additional transition issues that may arise. I am committed to ensuring a smooth transition as state and local agency Title V programs are approved and to providing, to the extent possible, the funding that these agencies need to implement the Clean Air Act. For further information on this guidance please contact either Bill Houck in the Office of Air and Radiation at 202-260-1754 or Susanne Lee in the Office of the General Counsel at 202-260-1484.

Attachments

**GRANT-FEE TRANSITION:
QUESTIONS and ANSWERS**

Office of Air and Radiation
July 21, 1994

GRANT-FEE TRANSITION: QUESTIONS and ANSWERS

105/ Title V Programmatic Relationship

Q. What is the programmatic relationship between section 105 and Title V?

- A.** Section 105 air grants have been appropriated by Congress annually since 1963 to assist air pollution control agencies (as defined in section 302(b)) in implementing programs for the prevention and control of air pollution and in meeting national ambient air quality standards.

However, Title V of the 1990 Clean Air Act created an operating permit program applicable to stationary sources of regulated air pollutants. It requires the owners of affected sources to pay fees to the permitting agency to cover all reasonable direct and indirect costs of the operating permit program.

Title V operating permit program costs will likely constitute a major portion, though not necessarily all, of a jurisdiction's stationary source program expenses. The operating permit program will be an integral component of an overall air quality maintenance and attainment strategy. This strategy will also encompass activities related to non-Title V stationary sources, area sources and mobile sources.

Since an important distinction has been made in the Act that Title V activities can only be supported by Title V fees, significant changes will need to be made in how air pollution control agencies fund a large portion of their air programs.

Title V Fees (General)

Q. How are Title V operating permit program expenses to be covered?

- A.** Section 502(b)(3) directs that all affected sources pay an annual fee, or equivalent over some other period, to the appropriate permitting authority. In most cases this will be the traditional section 105 air pollution control agency. The permitting authority is to recover fees in an aggregate amount sufficient to recover all reasonable (direct and indirect) expenses related to developing and administering the permit program. While Congress set a presumptive minimum fee rate for permitting authorities to meet (\$25 per ton adjusted annually per the CPI), a jurisdiction may collect less than this amount if it provides a detailed cost justification.

Section 105 (General)

Q. What are the nonfederal contribution requirements that a grantee must meet in order to obtain or retain a section 105 grant?

A. There are two major requirements that state and local agencies must meet in order to receive section 105 funds: (a) each agency must expend annually for recurrent program expenses at least the level of nonfederal funds that it expended in the previous year (i.e., its **maintenance of effort**), and (b) pursuant to 1990 CAA changes, each agency must cover at least 40% of the total recurring expenses of its section 105 air pollution control program (i.e., the **40% match**).

105/ Title V Fiscal Relationship

Q. Can Title V operating permit fees be used towards the nonfederal matching requirements of the section 105 air grant program?

A. After a thorough review, EPA's General Counsel concluded that Title V operating permit fees cannot be used to meet the cost-sharing requirements of the section 105 air grant program.

Section 502 of the Clean Air Act requires that sources subject to Title V permit requirements pay an annual fee, or the equivalent over some other period, to the applicable permitting authority. The fees the permitting authority collects must be sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the Title V operating permit program. Since section 502 requires that Title V program costs be funded solely from required Title V fees and these fees be used only for that purpose, Title V permit program costs cannot be funded through a section 105 grant and these costs are not allowable section 105 grant costs.

In order to qualify for cost-sharing, the costs incurred must be allowable costs under the EPA grant. Since Title V program costs are not allowable section 105 grant costs, the fees used to pay for them cannot be used to meet the cost-sharing requirements of section 105.

Q. If an agency already had an operating permit program in place which charged affected sources a fee, is the Title V fee only that portion which represents the

incremental change (i.e., the increase)? Can the original fee level be used as a basis for matching purposes?

A. Many of the activities and costs associated with a jurisdiction's existing stationary source control program effort will become a part of its Title V program once that program is approved by EPA. Title V requirements will, in and of themselves, likely generate new expenses. The Title V fee must be based upon the entire range of Title V-related expenses and not just the incremental change. No portion of the fees necessary to cover the full range of Title V-related program costs can be used for grant matching purposes.

Q. Does this mean that a jurisdiction cannot charge a Title V source a separate fee to cover other than Title V-related air program expenses?

A. No. A jurisdiction is free to charge a Title V source a separate fee to cover air program expenses other than those which are Title V-related (e.g., for state-only requirements). A jurisdiction may choose to collect this fee along with the Title V-related fee but the fees must be clearly be differentiated for administrative purposes.

Q. Can fee revenue in excess of that required to meet Title V needs be used towards the grant matching requirement?

A. The August 4, 1993 fee guidance for state Title V operating permit programs notes that Title V does not limit a jurisdiction's discretion to collect fees pursuant to independent state authority beyond the minimum amount required by Title V. Such funds may, at the discretion of the jurisdiction, be used for grant matching purposes. These funds, if used for grant matching, can only be expended on activities allowable in the approved grant workplan. These funds should also be clearly differentiated from fees required to cover Title V activities.

Q. How should permit fees which are collected in advance of Title V program approval be treated?

A. Permit fees generated in advance of Title V program approval but used for the development of the Title V program are generally termed "ramp-up" fees. Depending upon how the fee provisions were structured, this revenue may be used towards grant match or to subsidize an agency's post-approval Title V fee schedule. Specifically:

- Ramp-up fees that are generated as part of a grant agreement (i.e., used to support

allowable grant activities) should be counted towards an agency's grant cost-sharing requirements (matching and maintenance of effort).

- Ramp-up fees that are generated apart from a grant agreement but in advance of Title V approval may, at the discretion of the jurisdiction, be used to subsidize an agency's approved Title V fee schedule if certain criteria are met. The permitting authority must assure that the fees: were obtained from sources subject to Title V requirements; were collected or were to have been collected over a period subsequent to enactment of the 1990 amendments to the Clean Air Act; are identifiable and available for unrestricted use; and are, or will be, quantified and incorporated in the agency's four-year demonstration of Title V fee adequacy. These fees may not be used for grant matching purposes.

Applicable Activities

Q. What air program activities are eligible for fee coverage and what activities are eligible for continued receipt of grants? Does there need to be a clear differentiation?

A. Activities eligible for Title V permit fees are delineated in section 502(b)(3)(A) of the Act and in 40 CFR 70.9, the final Title V operating permit program rule. Although the Clean Air Act outlines expected Title V program activities, a state or local agency has some flexibility in how it designs its Title V program and fee schedule. As a result, the specific activities that are grant-eligible and those that are fee-related may vary among jurisdictions. Generally, Title V program activities are those which are necessary for the issuance and implementation of the Title V permits. EPA issued clarifying fee guidance on August 4, 1993 and a grant-fee matrix of activities on May 31, 1994. Since air grants cannot be used to pay for Title V-related activities a clear differentiation will need to be made.

Q. How should the Grant-Fee Matrix be used?

A. Regional offices and grant recipients should use the matrix as an information document and general guide and not as a prescriptive checklist for differentiating between grant-eligible and fee eligible activities. In some instances, the same activity could fall in either category, depending on the design of the state or local Title V program. The matrix can be expected to change over time as the nature of sources subject to Title V changes and

as new grant initiatives emerge.

Q. Can section 105 air grants be used to cover the development of a state's Title V operating permit program prior to its approval by EPA?

- A.** Yes. Section 105 grants can be used to assist in the 'ramp-up' or development of the permitting agency's prospective Title V program prior to its approval by EPA. To be an grants-eligible activity, of course, the Title V ramp-up activity must be included as part of the recipient's approved section 105 grant workplan. (Note: EPA has been awarding agencies air grants since FY 1991 to encourage the development of the Title V program and supporting fee provisions.) Until EPA takes action to either approve (including interim approval) or disapprove an agency's Title V program, that agency has the option of using its section 105 grant funds to develop its Title V program.

Section 105/ Title V Threshold

Q. When can air grants no longer be used to fund Title V-related program activities?

- A.** Once EPA has given interim or final approval to the Title V operating permit program of a state or local agency, the agency may no longer use section 105 grant funds to cover the reasonable direct and indirect costs of its Title V program activities except under specific circumstances as delineated in EPA guidance.

If a section 105 grant has been awarded that provides funding for activities that are part of the approved Title V program and no longer grant-eligible, the agency must amend or revise its grant workplan to eliminate the Title V activities and, if appropriate, reinvest the freed-up grant funds in other grant-eligible program areas.

Appropriate Procedures and Timing for Grant Workplan Submission and Adjustment

Q. What are acceptable grant workplan content and procedures for FY 1995 where a state or local agency expects Title V program approval subsequent to approval of its grant workplan (but during the FY 1995 grant budget period)?

- A.** In these circumstances, a regional office may use any one of the following approaches:

Approach A- Status Quo

- The grant applicant develops a grant workplan that shows the full range of air program activities planned during the course of the year. All sources and amounts of funding are identified including the agency's operating permit fees.

- Upon approval (or upon anticipation of approval) of its Title V program, an agency differentiates its Title V-related activities from the balance of its air program and negotiates their removal from the grant. Regions and recipients also identify the revised level of nonfederal support remaining for matching the federal grant as a result of the removal of Title V-related resources.

Approach B- Expanded Program

- As in approach A, a full activity workplan is developed. This approach, however, expands the initial workplan submission to identify non-Title V program activities for reinvestment or increased investment once the Title V program is approved, the Title V activity removed, and grant funds are freed.

- Investments and reinvestments would be subject to negotiation with the Region. Depending upon how explicitly and accurately the recipient has identified the changes in its activities and the retargeting of resources, a renegotiation of the grant may not be necessary.

Approach C- Incremental

- Where early Title V program approval is anticipated, the applicant submits a grant workplan which reflects only those air program activities which are clearly section 105 eligible. EPA would provide an incremental award reflecting support for only those activities.

- Upon approval (or upon anticipation of approval) of its Title V program, the applicant renegotiates its award (or an additional award) with EPA to identify supplemental areas of new or increased investment.

In all of the above approaches, every grant awarded to agencies with existing or potential Title V responsibilities must be conditioned to provide that no activities that are part of an approved Title V program will be funded with section 105 funds.

Impact on Nonfederal Contribution Requirements

Q. How is a recipient agency's cost-sharing (match) requirement affected by approval of its Title V program?

- A.** In those instances where an agency is no longer able to provide the necessary 40% nonfederal contribution level for a section 105 grant as a result of the transfer of air

program resources to the Title V program, the agency would be able to request a temporary waiver of the match requirement under rules currently under development by EPA.

Alternatively, if a recipient is not able to meet any of its match obligation because of the removal of all of its nonfederal resources to Title V-- but the recipient anticipated that it would be able to secure additional funding to return to at least the 40% level during the course of the grant budget period-- the recipient could request that EPA defer the recipient's nonfederal contribution until later in the grant budget period. The recipient would have to expend its nonfederal contribution within the approved budget period.

If the agency fails to meet the cost-sharing requirements because a waiver is not granted or the agency is unable to pay the amount of cost-sharing that has been deferred during the budget period, EPA may undertake the corrective actions set forth in 40 CFR 31.43. Included are actions such as terminating, or annulling the current award, or withholding future awards.

Q. How is a recipient's maintenance of effort (MOE) obligation affected by approval of its Title V program?

- A.** OGC has concluded that a grant recipient's MOE level may be adjusted to reflect the transfer of activities previously funded through section 105 grants to the Title V program. A state must maintain the level of effort associated with recurrent expenditures for activities that continue to be funded through section 105 grants. OGC has indicated that this principle applies to not only FY 1995 but future years as well.

Since the timing of Title V program approvals by EPA may vary and are uncertain, adjustment of the MOE level may need to occur in the midst of a fiscal year and not simply at its outset. Similarly, as Title V programs become fully implemented, further adjustments to the MOE level may be necessary in subsequent years.

Q. Many section 105 recipients have been contributing nonfederal funds at a rate greater

than the required 40% nonfederal minimum. When resources related to Title V have been removed from the section 105 equation, will these recipients be required to maintain their larger historical matching percentage or only a 40% contribution?

- A. This question confuses the matching and maintenance of effort requirements. If, even after adjustment for the removal of Title-V related resources, the grantee's contribution is at least 40% of the combined remaining nonfederal and federal grant funds, then the

grantee will have met the section 105 match requirement and remain eligible for at least the same level of federal funding that it had been receiving before. This is the only percentage requirement under the Act that a recipient must meet. Recipients are not obligated to increase their funding contribution to restore what might have been a historically-evolved nonfederal percentage above 40%. However, even though only 40% is required to meet the cost-sharing requirements, an amount above 40% may be required in order to meet the maintenance of effort requirement. Therefore, a recipient may not arbitrarily reduce its remaining nonfederal contribution simply because this funding level is greater than 40% relative to the total. This is because the amount of funds contributed constitutes the new maintenance of effort level and may not be reduced.

- Q. Can the MOE be adjusted for reasons other than the accommodation of the changes brought about by Title V?**

- A. Yes. An agency may request an adjustment of its MOE because of a nonselective reduction in the expenditures of all executive branch agencies (not just the air program) of the applicable unit of government (e.g., state or local government). As part of the revisions to Part 35, EPA is also considering other circumstances where MOE flexibility may be needed.

Grant Fiscal Integrity

- Q. Must a recipient continue to report its overall air program expenditures as part of the section 105 grant?**

- A. To assure that federal funds do not supplant other available resources EPA can request, as a condition for receipt of a section 105 grant, that a grantee describe all sources of support for the entirety of its air program activities.

Q. What financial integrity requirements must each grant recipient satisfy?

- A.** Permitting authorities and grant recipients will need to ensure the fiscal integrity of their grant and fee operations in order to avoid the inappropriate commingling of funds. For grants, EPA will rely upon the provisions in 40 CFR 31 including requirements that procedures for the expenditure and accounting of funds must be well documented and enable the clear tracing of funds. This includes adequate financial reporting, accounting records, internal controls, and budget controls. The recipient's workplan must also comply with all applicable federal statutes and regulations.

EPA expects each agency, if it has not already done so, to update and maintain a financial management system to accomplish the above objectives. This includes the necessary differentiation of air grant-eligible activities and expenditures from those which are related to Title V. This should occur no later than upon approval of the Title V program.

Each regional office will be expected to coordinate its review and oversight of each of its recipients' grant workplan and permit program submissions.

MATRIX OF TITLE V-RELATED AND AIR GRANT-ELIGIBLE ACTIVITIES

Use of the Matrix

The matrix should be read and used in concert with the August 4, 1993, operating permit fee guidance issued by the Office of Air Quality Planning and Standards, particularly the explanatory cover memorandum. That memorandum sets forth principles which will help guide the Agency's review of the Title V fee program submittals. The matrix does not reinterpret the Part 70 rule nor the Title V fee guidance. Rather the matrix reaffirms those program activities outlined by the guidance which are necessary for the development and implementation of a Title V operating permit program and which EPA expects to be covered by Title V fees. Title V operating permit program expenses cannot be eligible grant expenses.

Organization of the Matrix

The matrix consists of two columns of activities-- those which EPA considers necessary for the issuance and implementation of Title V permits (and which EPA expects to be covered by Title V permit fees)-- and those air program activities outside of Title V that would be eligible for federal air grant assistance.

Activities are organized by functional or substantive categories that are common to each of the columns in order to better illustrate the impact of Title V on the overall air program operations. The categories used, however, tend to reflect the functional aspects of Title V (i.e., program development, permit issuance, compliance, etc.). Because some portion of over-arching CAA activities like emissions inventory development, monitoring, etc., may be Title V-related, some repetition may occur in the matrix.

The left-hand column of the matrix lists those program activities outlined in the Title V fee guidance which are necessary for the development and implementation of a Title V operating permit program and which EPA expects to be covered by Title V fees. Categories of Title V-related activity include:

- Development of the Title V operating permit program
- Review and issuance of Title V permits
- Implementation of specific CAA requirements applicable to Title V
- Compliance/enforcement of Title V-related requirements
- Administration of Title V fee program
- Title V-related small business technical assistance
- Other activity necessary for Title V operations

By contrast, the right-hand column of the matrix lists air program activities which can reasonably be expected to remain eligible for federal air grant assistance. This list, while as comprehensive as possible, should not be viewed as absolute. The categories of activity used for grants-eligible activities include:

- Development/revision of permit requirements for non-Title V sources
- Permit review and issuance for non-Title V sources
- Implementation of specific CAA regulatory requirements
- Compliance/enforcement of CAA requirements not related to Title V
- Administration of grant and other forms of assistance
- CAA technical assistance to small business (outside of Title V)
- General and emerging air program activity

For Further Information

Questions on the matrix should be directed to William Houck in the Office of Program Management Operations at 202-260-1754. Specific concerns related to the eligibility of program expenses for Title V fee coverage and to Title V fee demonstrations should be directed to Kirt Cox at 919-541-5399 or Candace Carraway at 919-541-3189 in the Office of Air Quality Planning and Standards.

MATRIX OF TITLE V-RELATED AND AIR GRANT-ELIGIBLE ACTIVITIES

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Title V Permit Program Development	Other Permit Program Development
<p>Design/development of operating permit program for Part 70 sources including: preparation of initial program submittal; development of implementation agreement with EPA; documentation of resources and legal authority; training of staff for Title V program implementation; development of necessary regulations, policies, and procedures; development of modifications to program required by new Federal regulations or standards; integration with other Clean Air Act programs (including Title III/IV); development of data systems for tracking Part 70 sources; development and oversight of local Title V programs; development of model permits.</p>	<p>Development/revision of operating permit programs for other than Part 70 sources.</p>
<p>Determinations of program coverage and source applicability including: inventory of Part 70 sources; establishment of criteria for deferrals of non-major sources, development of significance levels for exempting required permit information; development of capacity to emit restrictions for avoiding consideration as major source (e.g., creation of synthetic minors).</p>	<p>Identification of those sources subject to any state permitting requirements other than those in the state's Title V program.</p>
<p>Revisions to the SIP to the extent they are necessary for the issuance and implementation of Part 70 permits.</p>	<p>Preparation, adoption and revision of SIPs necessary to implement permitting programs for other than Part 70 sources.</p>

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Title V Permit Review/Issuance Activities	Other Permit Review/Issuance Activities
<p>Review of permit application for permitting of Part 70 sources * including: completeness review, review of compliance plans, schedules and compliance certifications; development of permit terms and conditions (including operational flexibility); trading and compliance provisions; permit limitations; separation of state-only requirements; establishment of permit-equivalent SIP limitations; optional shield provisions; and actual issuance of the permit. * (For the purposes of this matrix, such sources include: Phase II, Title IV sources; as well as major and non-major sources deferred by EPA but which a state opts to include in Title V).</p>	<p>Review of applications and issuance of permits:</p> <ul style="list-style-type: none"> * For non-Part 70 sources; * For deferred sources during the deferral period approved by EPA rulemaking; * Covering state/local-only requirements in Part 70 permits.
<p>Activities in support of public, affected State, and EPA review of permits including: notices of issuance, renewal and significant modification and the opportunity to comment; holding of public hearings, as necessary; review of public comments and preparation of responses; documentation of hearing records; and preparation of responses to challenges on permit decisions.</p>	<p>Public participation activities associated with permit issuance, renewal and modification for other than Part 70 sources.</p>
<p>Post-permit issuance activity: following the issuance of Title V permits- any revisions, modifications, or reopenings necessary (including analysis and processing necessary for reissuance); and renewals of Title V permits.</p>	<p>Post-permit issuance activity for non-Part 70 sources.</p>
<p>Development of emission inventory compilation requirements necessary for Title V permit issuance, and any necessary equivalency and case-by-case RACT determinations under Section 110 of the Clean Air Act if conducted as part of the Part 70 permitting process.</p>	<p>Development of emission inventory compilation requirements, and any necessary equivalency and case-by-case RACT determinations under Section 110 of the Clean Air Act if conducted as part of a construction or non-Title V operating permit process.</p>

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Implementing Applicable Requirements	Implementing Other Permit or Regulatory Requirements
<p style="text-align: center;"><u>Title I</u></p> <p>Implementation and enforcement of permits issued to Part 70 sources pursuant to Title I, Parts C/D, and PSD/NSR sources.</p> <p>Implementation and enforcement of state/local minor new source review (NSR) permit for a Part 70 source that is a minor source provided that such a state/local program is approved under section 110(a)(2)(C).</p> <p>Implementation of section 111 NSPS through Part 70 permits.</p> <p style="text-align: center;"><u>Section 112</u></p> <p>Implementation of specific Title I, section 112 requirements through Part 70 permits:</p> <ul style="list-style-type: none"> * NESHAPs [112(d), 112(f)] * 112(h) design and work practice standards <p>Development and implementation of specific section 112 requirements through Part 70 permits:</p> <ul style="list-style-type: none"> * 112(g) modifications for constructed, reconstructed and modified major sources. * 112(i) early reductions occurring within Part 70 sources. * 112(j) equivalent MACT determinations. * 112(l) state/local air toxics activities that take place as part of Part 70 process. * 112(r)(7) risk management plans if plan is developed as part of Part 70 process. 	<p style="text-align: center;"><u>Title I</u></p> <p>Development, implementation and enforcement of state/local minor NSR permit programs which are not approved under 110(a)(2)(C).</p> <p>Implementation of section 111 NSPS that are not part of Title V/Part 70 process including new residential wood heaters (if not incorporated as part of Part 70 at the option of the state).</p> <p style="text-align: center;"><u>Section 112</u></p> <p>Asbestos NESHAP demolition and renovation activities (if not incorporated as part of the Part 70 program at the option of the state).</p> <p>Development and implementation of specific section 112 requirements affecting minor sources of hazardous air pollutants.</p> <p>112(l) state/local air toxics activities not within the Part 70 process (i.e., urban area toxics programs).</p> <p>112(r)(7) risk management plans or plan elements not developed as part of Part 70 process (i.e., plans are developed prior to permit issuance, plans cover sources deferred from Part 70, etc.).</p>

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
<p style="text-align: center;">Implementing Applicable Requirements</p>	<p style="text-align: center;">Implementing Other Permit or Regulatory Requirements</p>
<p style="text-align: center;"><u>Title IV</u></p> <p>Issue Phase II permits and implement CEM requirements after Title V approval including:</p> <ul style="list-style-type: none"> * Observe on-site tests of Phase II CEMs including: pre-test meetings; review of protocol, records, and data integrity; and verification of monitor performance. * Conduct Phase II CEM certification reviews including monitoring plan and data acquisition system review, and review of certification application. 	<p style="text-align: center;"><u>Title IV</u></p> <p>Assist in implementing Phase I Acid Rain program activities including:</p> <ul style="list-style-type: none"> * Develop infrastructure for implementation (including- hiring, training and organizing staff; installation and operation of data management systems; and establishing links to national acid rain data base). * Observe on-site tests of Phase I CEMs including: pre-test meetings; review of protocol, records, and data integrity; and verification of monitor performance. * Conduct Phase I CEM certification reviews, including monitoring plan and data acquisition system review; and review of application certification prior to Title V approval. * Initiate Phase I CEM compliance activities for sources missing deadlines. * Participate in NO_x permitting process @ Phase I sources. * Review, evaluate and act on Phase I NO_x averaging compliance plans. * Assist in Phase I compliance activities through field presence, oversight and support to EPA enforcement actions including NO_x. <p>Implement Phase II CEM activities occurring prior to Title V approval including:</p> <ul style="list-style-type: none"> * Observe on-site tests of Phase II CEMs including: pre-test meetings; review of protocol, records, and data integrity; and verification of monitor performance. * Conduct Phase II CEM certification reviews including monitoring plan and data acquisition system review, and review of certification application.
<p style="text-align: center;">TITLE V PERMIT FEE ACTIVITIES</p>	<p style="text-align: center;">AIR GRANT ELIGIBLE ACTIVITIES</p>

Compliance/Enforcement of Title V Requirements	Compliance and Enforcement of Other Permit or Regulatory Requirements
<p>Compliance and enforcement activities (prior to filing of an administrative or judicial complaint or order) to the extent the activities are related to the enforcement of a Part 70 permit, the obligation to obtain a Part 70 permit, or the Part 70 permitting regulations. This includes:</p> <ul style="list-style-type: none"> * Development/administration of enforcement legislation, regulations, guidance, and policies. * Review and certification of compliance plans and schedules for Part 70 sources. * Conduct and document inspections for determining compliance with Part 70 permit requirements and provisions including the performance of necessary analyses and support activities to verify source compliance with Part 70 permit requirements and provisions (e.g., stack tests conducted/reviewed by permitting authority, review of monitoring reports). * Review and observation of CEM monitoring plan, certification tests, and certification application for Part 70 sources. * Review of monitoring data for determining compliance of Part 70 sources including CEM data and reports. * Making requests to Part 70 source for information before or after violation is identified. * Preparation and issuance of notices, findings, and letters of violation. * Development of cases and referrals up until the filing of an administrative or judicial complaint or order. 	<p>Compliance and enforcement activities including:</p> <ul style="list-style-type: none"> * Determining compliance of non-Part 70 sources including sources permitted as synthetic minors if the state opts not to include these sources as part of the Part 70 program; * Part 70 sources following filing of administrative or judicial complaint or order; * State/local-only requirements on Part 70 sources.

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Administration of Title V Permit Fee Program	Administration of Other Revenue Programs
Design and modification, as necessary, of fee structure for part 70 sources.	Development, design, operation, demonstration, collection, administration, and accounting of permit and other fees for non-Part 70 sources.
Demonstration of fee schedules and projection of revenues from fee collections from Part 70 sources.	Development, design, operation, demonstration, collection, administration, and accounting of other fees, charges and financial mechanisms for overall air program support including meeting requirements for receipt and retention of federal air grant assistance.
Collection, administration, and accounting of fees for Part 70 sources including costs of performing self-auditing or audit by independent auditor of fee collections and the adequacy of the fiscal management of the fee system.	
Technical Assistance to Small Business	Technical Assistance to Small Business
<p>Costs of the Small Business Assistance Program attributable to Part 70 sources including that portion of costs related to:</p> <ul style="list-style-type: none"> * Clearinghouse on compliance methods and technologies including pollution prevention approaches. * Establishment of CAA/small business ombudsman and the provision of information on source applicability, available assistance, and the rights and obligations of small business stationary sources under the CAA. * Small Business Compliance Advisory Panel. 	<p>Costs of the Small Business Assistance Program attributable to non-Part 70 sources including that portion of costs related to:</p> <ul style="list-style-type: none"> * Clearinghouse on compliance methods and technologies including pollution prevention approaches. * Establishment of CAA/small business ombudsman and the provision of information on source applicability, available assistance, and the rights and obligations of small business stationary sources under the CAA. * Small Business Compliance Advisory Panel.

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Other Title V-Related Program Costs	Non-Title V Permit Program Costs
<p>General air program activities to the extent such activities are necessary for the issuance and implementation of Part 70 permits. These include:</p> <ul style="list-style-type: none"> * Installation, operation, and maintenance of emissions and ambient monitoring instrumentation required in the Part 70 permit. * Performance of ambient monitoring required in Part 70 permit. * Emission testing on Part 70 sources required as part of the Part 70 permit. * Modeling and other impact analyses required as part of Part 70 permit. * Development of emissions inventories required as part of Part 70 permit (e.g., to verify compliance with Part 70 permit provisions, to develop and maintain permit fee schedule). * Overhead and administrative costs directly related to implementation of EPA approved state/local Title V operating permit program. 	<p>General and source-specific air program requirements necessary for the issuance and implementation of a state operating permit for other than a Part 70 source including:</p> <ul style="list-style-type: none"> * Installation, operation, and maintenance of emissions and ambient monitoring instrumentation required for non-Part 70 source. * Performance of ambient monitoring required for non-Part 70 source. * Emission testing on non-Part 70 sources. * Modeling and other impact analyses for a non-Part 70 source. * Development of emissions inventory data for non-Part 70 sources or to verify compliance with other than Part 70 permit provisions. * Overhead and administrative costs directly related to the implementation of a non-Title V permitting program.

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
General Air Program Activity	General Air Program Activity
<p>Preparation, planning, development, and adoption of source-specific SIPs necessary for the issuance of a Title V permit and implementation of the permit provisions.</p>	<p>Preparation, planning, development, and adoption of SIPs, including those for attainment and maintenance of NAAQS, enactment of state or local area-wide source regulations, and enactment of mobile or area source controls (excludes source-specific SIPs required as part of Title V program/Part 70 permit such as identification of synthetic minor sources). SIP development includes: the conduct of analyses of control options and demonstration of alternative strategies and regulatory approaches; development and maintenance of emissions inventory for preparing attainment and maintenance strategies and for assessing progress in achieving necessary emissions reductions for attaining NAAQS; and conduct of area or regional modelling to assess and demonstrate options. Also, includes the designation/redesignation of nonattainment areas and other procedural changes related to the attainment and maintenance of NAAQS.</p>
<p>Establishment, operation, and maintenance of that portion of a multiple site ambient monitoring network which is necessary for the issuance of a Title V permit or permits (as documented in the permit issued to the source or group of sources) including any applicable source-specific NAMS, SLAMS or PAMS monitor. This includes the cost of purchasing the monitor; collection, processing, management and review of data collected by the monitor; and quality assurance of the instrumentation.</p>	<p>Establishment, operation, and maintenance of multiple site ambient monitoring networks designed to assess overall levels and trends within the ambient air including the EPA required or approved networks for NAMS, SLAMS, PAMS, urban air toxics, and acid rain assessment networks. This includes the cost of purchasing monitoring equipment; collection, processing, management and review of data collected by the networks; and the quality assurance of the networks and instrumentation (excludes ambient monitoring specifically required by a Title V permit).</p>
<p>Planning, establishment, and implementation of programs for the development and training of state/local staff to implement Title V and related Title III and IV requirements.</p>	<p>Planning, establishment, and implementation of programs for the development and training of state/local staff to carry out Clean Air Act requirements and Agency priorities not related to the implementation of the Title V program.</p>

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
General Air Program Activity	General Air Program Activity
	<p data-bbox="987 394 1252 422" style="text-align: center;"><u>Mobile Source Programs</u></p> <p data-bbox="829 453 1344 575">Planning, development, implementation, or oversight of mobile source control program required by Titles I & II of the Clean Air Act including:</p> <ul style="list-style-type: none"> <li data-bbox="829 611 1386 667">* Development of emissions inventories for mobile sources. <li data-bbox="829 701 1398 823">* Planning, development and oversight of basic and enhanced motor vehicle inspection/ maintenance (implementation should be paid by vehicle inspection fees). <li data-bbox="829 856 1409 978">* Planning, development and oversight of oxygenated and alternative fuels programs for motor vehicles (implementation expected to be paid by non-grant/private sector resources). <li data-bbox="829 1012 1365 1100">* Planning, development and oversight of clean vehicle programs (implementation expected to be paid by non-grant/private sector resources). <li data-bbox="829 1134 1403 1283">* Development and enforcement of Stage I and Stage II vapor recovery/ refueling programs for motor vehicle fuels including tanker truck inspections (installation of controls expected to be paid by non-grant/private sector resources). <li data-bbox="829 1316 1403 1438">* Integration of transportation and air-quality related planning activities including transportation-air quality analyses and determinations of transportation conformity. <li data-bbox="829 1472 1377 1593">* Planning, development, and oversight of transportation control measures (implementation expected to be paid by non-grant/private or other public sector resources).

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
<p>General Air Program Activity</p>	<p>General Air Program Activity</p> <p><u>Environmental Compatibility</u></p> <p>* State/local review of assurances by federal entities as to the general conformity of their activities with an approved state implementation plan (40 CFR 93 Subpart A); state/local determination of conformity of their federally-assisted actions (40 CFR 51).</p> <p>* Environmental impact review.</p> <p>* Land use and air quality analyses.</p>
<p>Emerging Activities and Programs</p> <p>* Public education and outreach concerning implementation of the Title V program.</p>	<p>Emerging Activities and Programs</p> <p>Planning, development, implementation of emerging programs and initiatives required by the Clean Air Act or agency priorities including:</p> <p>* Public education and outreach concerning the overall provisions of the Clean Air Act and the specific provisions required for implementation of non-Title V provisions.</p> <p>* Planning and implementation of specific geographic or ecosystem approaches (including multi-media support) and studies for addressing specific air pollution problems within defined geographic areas.</p> <p>* Planning and implementation of pollution prevention initiatives and strategies, market-based approaches, risk analysis, not directly related to implementation of a Title V permit to a specific Part 70 source.</p> <p>* Promotion of public/private partnerships for addressing specific air pollution problems.</p>

TITLE V PERMIT FEE ACTIVITIES	AIR GRANT ELIGIBLE ACTIVITIES
Emerging Activities and Programs	Emerging Activities and Programs
<p>* Future determinations will need to be made about the applicability of this matrix to those Indian Tribes which administer EPA-approved operating permit programs.</p>	<p>* Development and implementation of voluntary programs for reducing air pollution and/or addressing specific risks including indoor air, green programs, and other voluntary energy conservation programs.</p> <p>* Programs for assessing air quality maintenance/ air pollution control needs and for the development and implementation of air quality programs on Indian lands.</p> <p>* Programs for improving the transfer and exchange of programmatic and technical information among state and local programs including information on emerging and innovative technologies.</p> <p>* Innovative personnel programs to promote sharing of expertise and knowledge among state, local, and federal agencies.</p> <p>* Development of state programs for control of ozone depleting substances; and for control of carbon dioxide emissions.</p> <p>* Support for regional associations of states and interstate pollution control compacts.</p> <p>* Participation in international studies, programs, and agreements.</p>