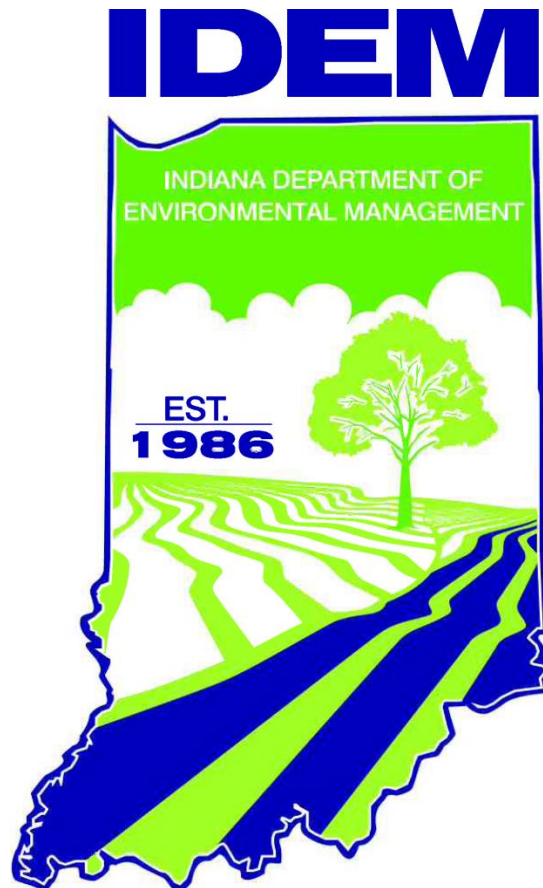


Office of Air Quality

Report to the Environmental Rules Board on Air Permitting Programs

as required by 326 IAC 2-7-19, 326 IAC 2-1.1-8 and IC 13-17-13-3



April 10, 2024

for permit activity during the State Fiscal Year 2023 (FY23):
July 1, 2022 - June 30, 2023

Report to the Environmental Rules Board on Air Permitting Programs

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Introduction to Consolidated Air Board Report on Permitting

The Indiana Department of Environmental Management's permitting programs are crucial to the successful implementation of Indiana's pollution control laws. Those affected by these programs - the regulated community, the general public, state and local officials, and the staff at the Indiana Department of Environmental Management (IDEM) - are interested in how these programs are implemented. The IDEM has been very active in providing information on the department's progress in improving the implementation of the various permit programs. In addition to supplying information requested by various groups, the Office of Air Quality (OAQ) reports annually to the Environmental Rules Board as required by state law.

Three provisions in the state law: 326 IAC 2-7-19 regarding the permit programs that implement Title V of the federal Clean Air Act; 326 IAC 2-1.1-8 on permit decisions subject to timeliness deadlines; and IC 13-17-13-3 regarding the streamlined Enforceable Operating Agreements require the OAQ to report on various aspects of our air permit program. Originally, the required information was presented in one report with three sections, with a separate section for Title V, NSR and Enforceable Operating Agreements. Beginning with the report for 1999, the reports have been integrated into one report that contains all the information required by the three different provisions of state law. In addition, the report also contains additional information that is not required by the underlying legal provisions but is relevant to the implementation of the programs. This report covers the State Fiscal Year 2023, which began July 1, 2022, and ended June 30, 2023.

The public and interested parties can obtain more information regarding OAQ's construction and operating permit programs via the IDEM website:

<https://www.in.gov/idem/airpermit/>. Information on this site includes:

- a link to IDEM's online permit guide, and
- Air Quality Permits Status Search, offering an opportunity to check on the status of permit applications and view and download draft and final permit documents using "real time" data.

Background and Overview

Historically, the Air Permits Branch was responsible for implementing Indiana's **New Source Review Program** (also called Construction Permits), which permitted new sources and modifications to existing sources. This program had several levels of approvals, based on emissions.

In 1996, the Branch began implementing the Operating Permit programs that resulted from Title V of the 1990 Clean Air Act Amendments, known as the **Title V Operating Permit Program**. The U.S. EPA granted interim approval for Indiana's Title V operating permit program on December 14, 1995, and OAQ obtained full EPA approval of the program December 4, 2001. This new program has enabled the Agency to draft a compliance tool (the Title V permit) for the permittee, the Agency, and the public that serves as a single reference for all air pollution related requirements applicable to the permitted source. As a result, the OAQ has been reviewing, standardizing, and updating air operating permits for all significant point sources of air pollution in our state. Compliance rates will increase and emissions to the air will decrease as a result of the permits focus on monitoring environmentally significant operations.

Since 1990, the OAQ has worked with interested parties to develop relevant legislation, rules, applications, and model language that will be used to implement Indiana's air operating permit programs. Approximately 1700 sources were affected by these programs in 1990. As new sources have been built, and others have closed, that number has grown to approximately 2000. Almost 700 of these sources, predominantly major sources of air pollution, have already obtained or will be obtaining the permits specifically described by Title V of the Clean Air Act. Sources that would otherwise be required to obtain these Title V permits are covered by permit programs that are specially designed for smaller sources. These programs - Federally Enforceable State Operating Permits (FESOP), Source Specific Operating Agreements, (SSOA) and Permit by Rule - establish limits on a source's potential to emit air pollution to below Title V applicability thresholds. These programs achieve the most practical benefits of the full Title V program with streamlined procedures and lower fees. Title V requires that the direct and indirect cost of these programs be supported by permit fees established by the states.

The **Federally Enforceable State Operation Permit (FESOP)** allows sources to limit their air emissions below the Title V threshold levels. A FESOP is somewhat less complex than a Title V permit and can provide more operational flexibility. Conditions in a FESOP are enforceable by U.S. EPA as well as by IDEM. The OAQ has issued 1311 FESOPs as of June 30, 2023, and 34 FESOPS during FY23.

The **Source Specific Operating Agreement (SSOA) Program**, established under 326 IAC 2-9, addresses specific types of sources that, if emissions were unlimited, would have a potential to emit (PTE) at thresholds greater than the major source thresholds for any criteria or hazardous air pollutants. However, the nature of the sources makes it possible to establish realistic operating conditions to limit the PTE to considerably less than major source thresholds. These conditions are specifically established by rule significantly streamlining the application, review, and approval process. The source categories in this program are:

- Surface Coating and Graphic Arts Operations
- Woodworking Operations
- Abrasive Cleaning Operations
- Grain Elevators
- Sand and Gravel Plants
- Crushed Stone Processing Plants
- Ready-Mix Concrete Batch Plants
- Coal Mines and Coal Preparation Plants
- Automobile Refinishing Operations
- Degreasing Operations
- External Combustion Sources
- Internal Combustion Sources

Sources receiving an approval under 326 IAC 2-9 are exempt from the major operating permit program and are not required to submit a Title V or Federally Enforceable State Operating Permit (FESOP) application. OAQ has issued 1458 SSOAs as of June 30, 2023, and 36 SSOAs during FY23.

The **Permit by Rule** program, established under 326 IAC 2-10, exempts certain very small sources from the requirement to obtain an operating approval due to the minimal amount of emissions generated by the source. These sources include all sources that have actual emissions less than 20% of the major source thresholds (without the use of emission controls) as established in 326 IAC 8-2-10. The Permit by Rule program also establishes, under 326 IAC 2-11, the following specific source categories:

- Gasoline Dispensing
- Grain Elevators
- Grain Processing or Milling

By rule, sources under the Permit by Rule Program are not required to submit an application, notify the OAQ or get an approval. These operations are required to produce ordinary business records upon the request of IDEM. IDEM can then verify that the source meets the requirements of the rules. Some sources do choose to notify IDEM and request an acknowledgement letter. During FY23, OAQ issued acknowledgement letters to the 9 sources that requested them.

On December 25, 1998, rules became effective that essentially created a unitary permit system, in which only brand-new sources will receive a Construction permit. All other types of modifications to existing sources receive an Amendment, Modification, or Revision to their existing Operating Permit. To most effectively implement federal requirements for sources that have a Title V permit, the OAQ issues separate permits for construction and operation. Permit Accountability, the requirement that approvals be issued within statutorily prescribed timeframes, still applies to agency permit actions in essentially the same manner as before.

The charts on the following pages show more detailed information on permit activity on:

Operating Permit Programs

First time Title V Operating Permits

Minor Operating Permits

Significant Modifications to Title V Operating Permits

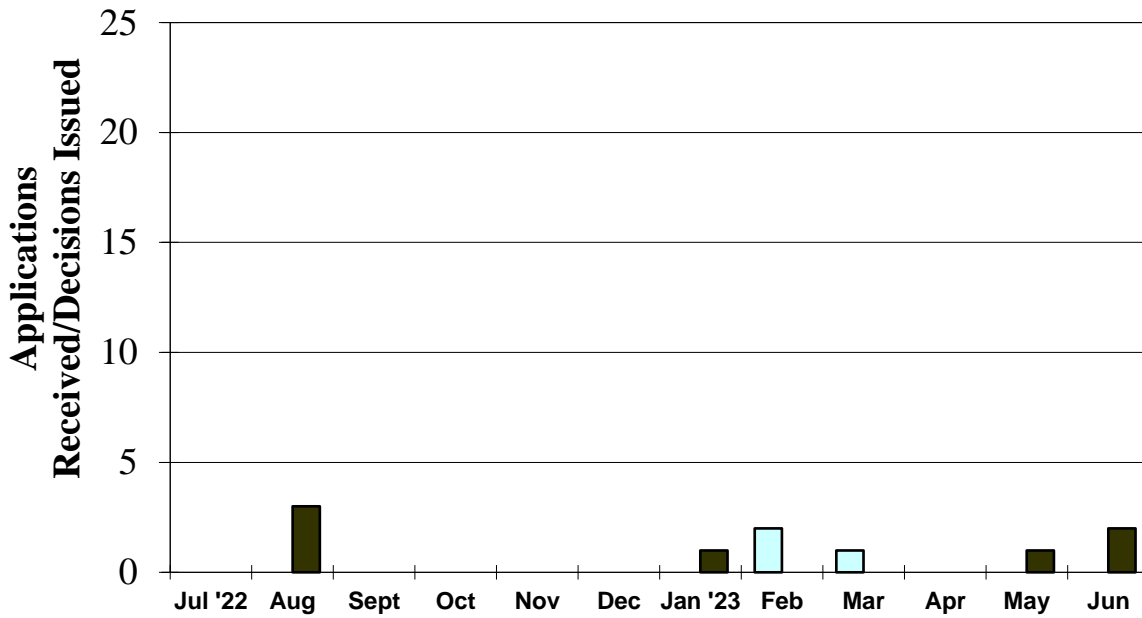
New Source Review Program

New Construction/Source Modifications

Federal Air Construction Permits

First Time Title V Operating Permits

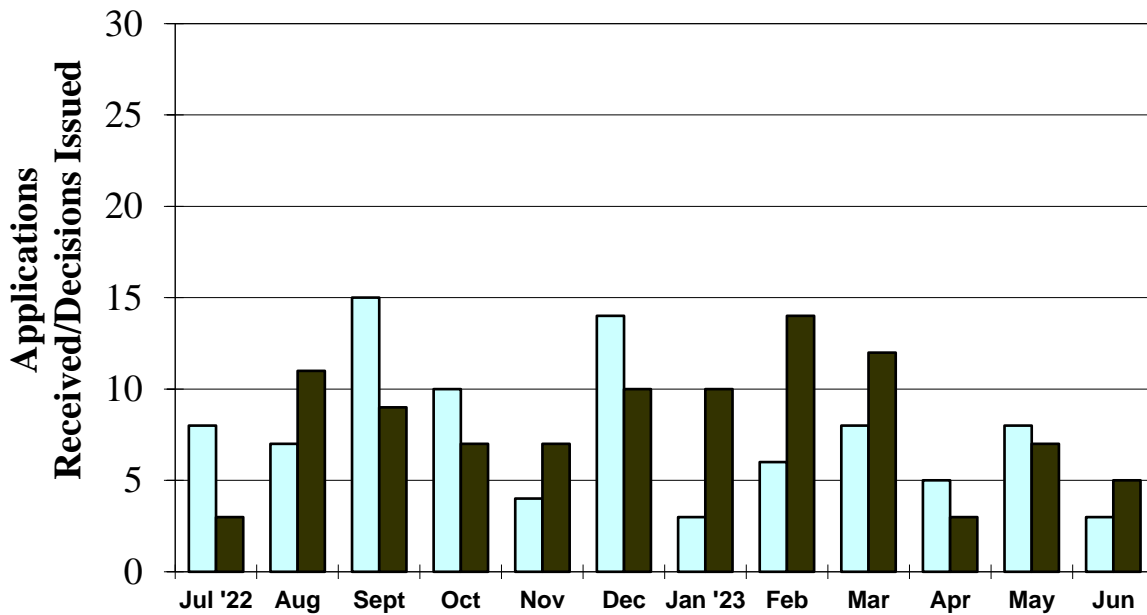
This chart represents first time Title V Operating permits only. The chart does not include those Title V applications received as part of a combined construction permit/operating permit approval, such as Title V/New Source Review, which are instead tracked as construction permits on page 8. The chart includes ALL permit decisions, including applications which were combined, withdrawn, or cancelled.



Applications	Jul '22	Aug	Sept	Oct	Nov	Dec	Jan '23	Feb	Mar	Apr	May	Jun	Total
Received	0	0	0	0	0	0	0	2	1	0	0	0	3
Final Decisions	0	3	0	0	0	0	1	0	0	0	1	2	7
Pending (not shown)	8	5	2	2	2	2	1	3	4	4	3	1	

Minor Operating Permits

This chart shows Minor Source Operating Permits (MSOP), the Source Specific Operating Agreements (SSOAs), and Federally Enforceable State Operation Permits (FESOPs). The 1998 rules required existing minor sources without a valid permit to apply for an approval by December 27, 1999. Existing minor sources with operating permits were required to apply by December 26, 2000. The chart does not include those FESOP and MSOP applications received as part of a combined construction permit/operating permit approval, such as FESOP or MSOP with New Construction, which are tracked as construction permits (see page 8). Decisions include permits issued as well as applications withdrawn, combined or denied.

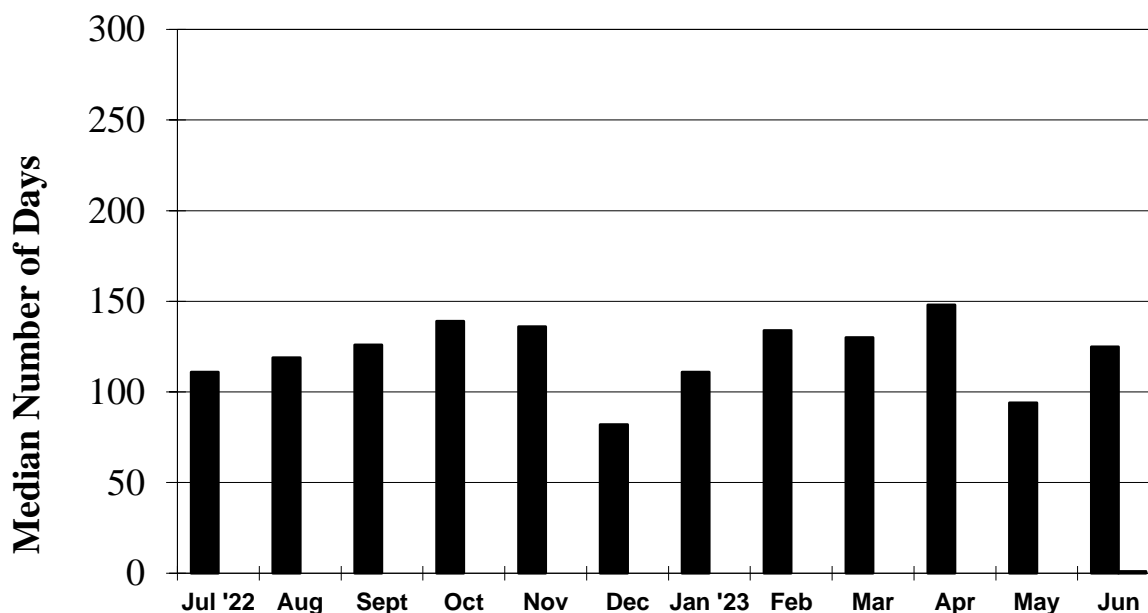


Applications	Jul '22	Aug	Sept	Oct	Nov	Dec	Jan '23	Feb	Mar	Apr	May	Jun	Total
Received	8	7	15	10	4	14	3	6	8	5	8	3	91
Final Decisions	3	11	9	7	7	10	10	14	12	3	7	5	98
Pending (not shown)	29	25	31	34	31	35	28	20	15	18	19	17	

Of the 98 minor source permit decisions made in FY23, 8 were Source Specific Operating Agreements (SSOAs).

Significant Modifications to Title V Operating Permits: 270-day deadline

This chart shows approvals for modifications to existing Title V permits. Approvals for modifications to existing sources with Title V permits is a two-step process: source modification approval and permit modification approval. Pre-construction approvals for modifications to "sources" are tracked on page 8.

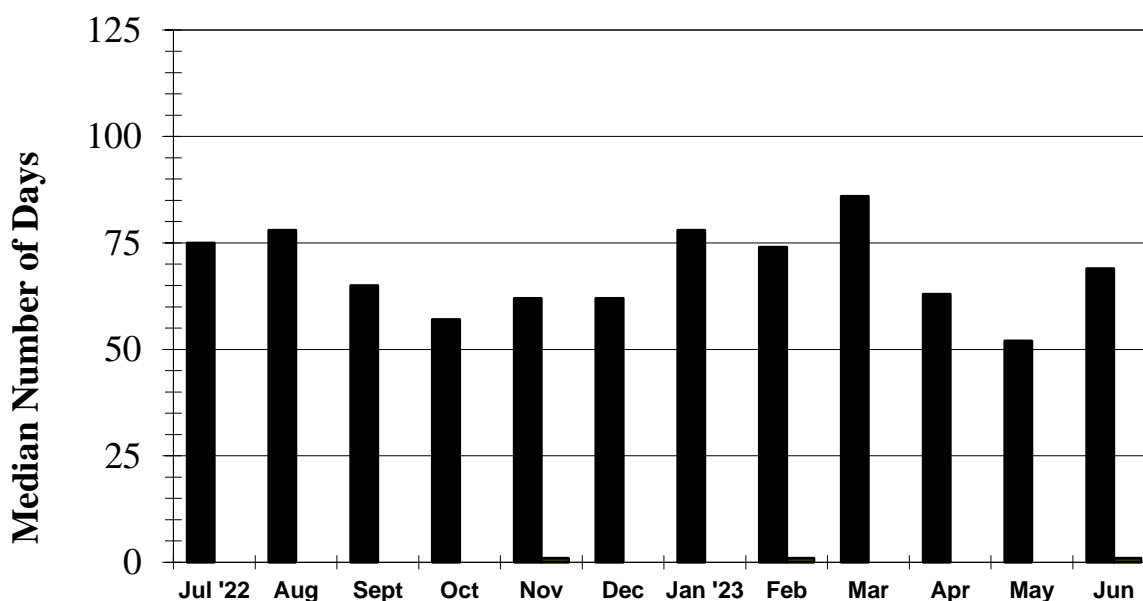


Applications	Jul '22	Aug	Sept	Oct	Nov	Dec	Jan '23	Feb	Mar	Apr	May	Jun	Total
Median # of Days to Issue	111	119	126	139	136	82	111	134	130	148	94	125	
#Past 270 Days*	0	0	0	0	0	0	0	0	0	0	0	1	1
Actual # Modifications Issued	6	7	7	5	8	7	1	7	6	7	7	7	75
Total Applications Received	5	9	13	8	9	4	6	7	9	7	7	10	94
Total Decisions	0	8	8	5	9	7	2	9	7	7	9	7	78
Total Applications Pending	36	37	42	45	45	42	46	44	46	46	44	47	

* There is no statutory deadline for the approval of Title V significant permit modifications; instead, 326 IAC 2-7-12(d)(2) states that IDEM shall complete review of the majority of significant permit modifications within nine (9) months after receipt of a complete application.

New Construction/Source Modifications updated

The first table reports the number of permits **subject to the 120-day deadline** which were approved, and the median number of days it took to issue those permits, which also is depicted in the bar graph.



	Jul '22	Aug	Sep	Oct	Nov	Dec	Jan '23	Feb	Mar	Apr	May	Jun	Total
Median # of days to issue	75	78	65	57	62	62	78	74	86	63	52	69	
# of Permits past deadline	0	0	0	0	1	0	0	1	0	0	0	1	3
# of permit approvals issued	11	19	16	13	21	15	16	21	14	11	12	15	184

The second table represents the total number of applications received, decisions issued, and applications pending for all levels of construction approvals, including: New Construction Permits, Interim Construction Permits, Registrations, applications for combined construction/operating permits (such as FESOP/NSR (Federally Enforceable State Operating Permit/New Source Review), as well as requests for modifications to existing sources, including modifications to Title V sources. Modifications to Title V permits are shown on page 7.

	Jul '22	Aug	Sep	Oct	Nov	Dec	Jan '23	Feb	Mar	Apr	May	Jun	Total
Total applications received	23	34	33	31	18	26	19	24	36	14	21	19	298
Total final decisions	29	30	31	26	27	26	28	28	28	20	33	30	336
Total applications pending	107	111	113	118	109	109	100	96	104	98	86	75	

Major New Source Review: 270 Day Review

The OAQ issued the following permits subject to Federal Major New Source Review rules in FY23. All permits subject to permit accountability were issued within the allowable time.

Applicant	County	Date
Nucor Steel	107	3/30/23
Bunge North America	145	5/12/23
General Motors LLC	003	5/31/23
Cargill Inc Soybean	157	6/15/23
Maple Creek Energy	153	6/19/23

The following information regarding permit activity is not shown on the preceding charts but is required by rule to be included in this report:

Permit Application Increase/reduction

During FY23 the OAQ received a total of 1173 permit applications; (0 of the 1173 were reviewed by the Local Air Pollution Control Agencies).

During FY22 the OAQ received a total of 1264 permit applications; (0 of the 1264 were reviewed by the Local Air Pollution Control Agencies.)

This represents a 2.8% decrease in the number of applications received.

Public Hearings

The Office of Air Quality conducted 0 public hearings and 2 public meetings during FY23. During this same period last year, the OAQ conducted 2 public hearing and 3 public meetings.

Appeals and Objections

Eighteen approvals were issued to resolve air permit appeal cases and four decisions were appealed in FY23.

Notices of Deficiency/Requests for Additional Information

During FY23, the OAQ emailed, faxed, or mailed 178 Notices of Deficiency.

During FY22, the OAQ emailed, faxed, or mailed 163 Notices of Deficiency.

We no longer have our administrative staff issue an Administrative NOD prior to assigning the application to the permit writer. Instead, administrative deficiencies are addressed by the permit writer as part of a standard NOD that may include other technical deficiencies as well. In addition, because Renewals did not have the separate accountability timeclock that NSR work had, NODs were not specifically identified and tracked in the past. However, given OAQ's initiative to eliminate backlogs, we encouraged staff to document attempts to obtain this information through an NOD. These, and most of the other NODs, are handled through Fax or E-mail rather than mail for improved efficiency.

Description of any monies deposited into the Title V Operating Trust Fund that were obtained by means other than the fees paid under Title V

Only fees collected from Title V, FESOP, and SSOA sources, and interest on these funds have been deposited into the Title V Operating Permit Trust Fund. No other monies have been deposited.

Review of Fee Schedule and Adequacy of Fees Collected

The Commissioner may adjust the fee schedule using the revision of the Consumer Price Index (CPI) which is most consistent with the CPI for calendar year 1995. The Commissioner may also adjust the fee schedule in the event that revenues do not total \$13,700,000. Revenues in FY23 did not total this amount.

IDEM requested, and the ERB granted, a Title V fee increase in 2023. Senate Bill 155 passed during the 2023 legislative session. This bill revised IC 13-17-3 to allow IDEM to increase the base fee for Title V and FESOP sources to \$6100. The ERB approved the revision to the state rules, to implement this change, in December 2023.

Title V Fund Review

IDEM is required to review the balance of the trust fund as of July 1 and determine, once obligated funds are subtracted, whether the balance of the fund exceeds \$3,000,000. If that amount is exceeded, IDEM must adjust the fee payment schedule for the next billing cycle to return any excess trust fund monies. The IDEM Controller has conducted this review and has determined that the unobligated fund balance in the Title V fund was less than \$3,000,000 as of July 1, 2023.

The fees collected for our Title V program vary from year to year due in part to changes in emissions reported by sources. Given this variability, revenue does not always match expenditures during the fiscal year. To account for this variability, IDEM must carry-over funds and/or expenditures from the previous fiscal year to manage its funding obligations. Title V fees are paid once a year, in the first quarter of each calendar year, however we have additional Title V expenses between the end of the fiscal year and the end the calendar year. The funds remaining in the Title V account on June 30, 2022, are used to cover expenses through the next fee collection period, which will not occur until 2023. Therefore, the remaining balance in the Title V fund is "obligated" for payment of Title V expenses for a portion of the next fiscal year.

The next page shows the status of the Title V Dedicated Fund account, as prepared by IDEM's Controller.

Financial Information

Air Program Permit Fee Collections and Revenues Expenditures

No permit fees were refunded under 326 IAC 2-1.18(m) and (n) in FY23 because there were no late permit decisions. The Auditor's Cash Balance Report is provided below.

Legal Fund: 2760 - Title V Operating Permit Program Trust Fund		
		Net Change
Ending Balance FY21:	\$ 2,760,405.00	
Ending Balance FY22:	\$ 3,281,226.00	\$ 520,821.00
Ending Balance FY23:	\$ 2,170,518.00	\$ (1,110,708.00)
FY23 Starting Balance	\$ 3,281,226.00	
Expenditures	\$ (12,303,246.00)	
(Pre)Encumbrances	\$ -	
Revenue*	\$ 11,192,538.00	
Balance a/o end of FY23 (06/30/23)	\$ 2,170,518.00	
* The majority of Title V revenue is collected in January and February		

Air Permits Program Improvements and Accomplishments

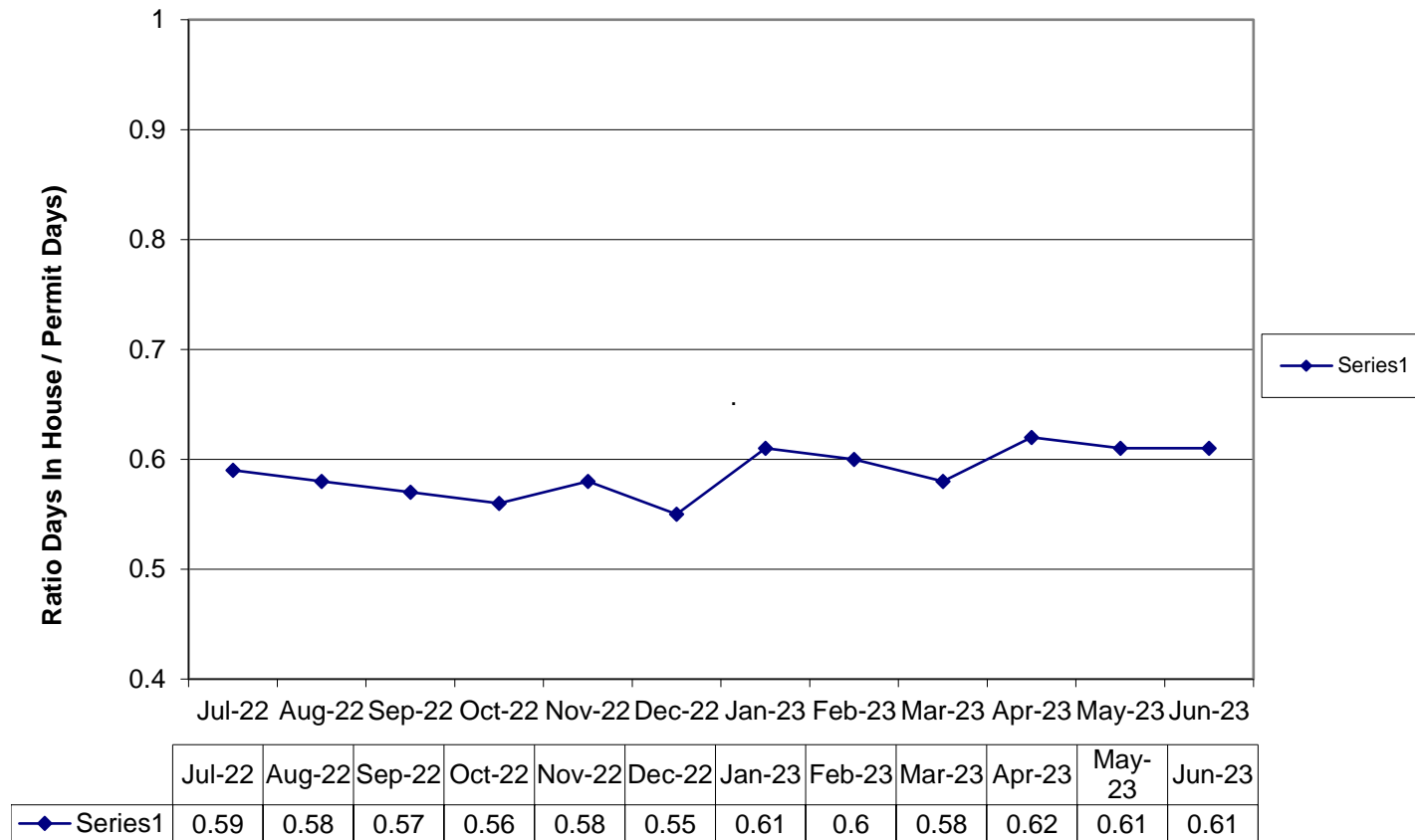
Initial Title V issuance

- ▶ OAQ has issued all the initial Title V permits (applications received before 12/1/01).

Improvement in Metrics

- ▶ In 2006 IDEM began reporting on agency-wide performance metrics to the Governor. The permit goal in previous years was to, on average, issue permits within their respective permit accountability deadlines on a calendar day rather than accountability clock day basis. However, in an effort to improve efficiency in permit issuance rates, a new goal was set. For this report period the goal was to issue permits at or below 75% of the respective permit accountability deadlines on a calendar day basis on an agency-wide average. As the chart at the bottom of this page indicates, OAQ met this goal for the majority of FY23.

PERMIT METRICS: SUMMARY



Priorities for the Air Permits Program for the next 12 months

Continuous Improvement – Training & Mentoring

We are currently testing a new SharePoint site that will become the location for drafting and reviewing permits. This site is a vast improvement over the current site and is allowing for the development of tools that will greatly eliminate manual tasks associated with our current site. The new site is easier to maintain, navigate, and has allowed us to streamline portions of the permit drafting and review process. We look forward to going live and developing further enhancements of the site during FY 2024.

Continuous Improvement – Training & Mentoring

In FY 2023, OAQ continued to make minor adjustments to the process and improvements to our training program.

In FY 2023, a Permit Writer Onboarding Manual was developed. The manual walks new permit writers through numerous items that were previously introduced by hands on mentoring. It also provides a reference manual. Instead of going back to a mentor when a new writer didn't quite catch the process that was verbally explained to them, they can look to the manual for guidance.

The permit writer will spend time getting to know their section and peers. An E7 will then spend around an hour making certain the laptop is set up correctly and the permit writer's passwords to state accounts work. The E7 will then check for several emails that the permit writer will need. The permit writer will then work through the onboarding manual. If they encounter any issues, they can reach out to their mentor.

The manual has made a significant impact on the time mentors dedicate to introducing new permit writers to our systems, protocols, and providing training and guidance not directly related to learning the regulations and the application of regulations.

As always, we strive to be aware of opportunities to developed new documents and implemented training geared specifically towards the SEM1s and EE1s to ensure consistency across sections. Our SEM1/EE1 workgroup continues to provide suggestions on improvements and take on the task of providing opportunities that foster a team spirit.

OAQ Permit Branch Form Updates

In FY 2023, OAQ continued working on a project to review and improve our application forms. In 2 situations, we have been able to combine several forms into a single form. Due to limited staff resources, this is a long-term project. However, we continue to carve out time each quarter to address potential improvements to our forms. During FY 2024, it is the goal of the Permits Branch to have the subset of GSD forms updated. This project will improve the information contained with submittals, improving our ability to issue quality permits timely. Additionally, this project is intended to provide clearer, more focused forms, for the public; thereby, reducing the amount of time necessary to complete an application.

Permit Renewals

The renewal issuance metric for the EPA TOPs report was updated in FY 2022. In FY 2023 we focused on meeting the new more stringent determination method of the metric. EPA has set a metric of 10%; however, OAQ has set a metric of 0%. OAQ has been able to achieve less than the EPA goal of 10% percent backlog TV renewals. For the December 31, 2022, TOPs report the backlog was 0.36 %. For the June 30, 2023, TOPs report the backlog was 1.26 %.

The delay in issuance of these Renewals is offset by the elimination of pending appeals and the workload reduction on OAQ and OLC staff, which has an overall positive impact.

Economic Development Permits

During FY 2023, OAQ continued its dedication to customer service, allowing for modifications and new construction for companies adapting to the difficult economic conditions. These projects, regardless of the size and scope, have a significant impact on employment and tax-revenue at the local level and expeditious permitting helps in these areas. OAQ remains committed to issuing these, and all permit decisions, for new sources and modifications of existing sources, as timely as possible without compromising quality or public input.