

## Compliance Advisories - Air

### Alert

[Permit Language Clarification - Title V Air Operating Permit Stack Testing Every 5-years](#)

Issued: January 23, 2025

Enforcement Alert: #2025-02

Environmental Focus: Air

## Why was this Compliance Advisory necessary?

- Permitting changed their policy regarding Operating Permit expiration dates.
- No longer a consistent 5-year block for each Permit term based on the original Operating Permit approval (an “Anchor” date) for determining when 5-year stack testing was due.
- Language added to the Operating Permit General Provisions could be subject to interpretation.
- Clarification needed to establish a new “Anchor” date for consistency.



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### MEMORANDUM

To: Operating Permit Section Staff

From: Danny Wong, Bureau Chief, Bureau of Stationary Sources

Date: June 20, 2022

Sub: Operating Permit Renewals – Expiration Dates

DW

This guidance relates to setting expiration dates for Title V Operating Permits and changes in the requirement for submitting a second renewal application when the first renewal application is still pending New Jersey Department of Environmental Protection's (Department) review and approval.

**Renewal Expiration Dates:** The Department will now set the permit expiration date five (5) years from the issuance date of the renewed operating permit. Please note that this is different from our past practice of setting the expiration date in five-year intervals from the Initial operating permit issuance date.

**Stack Testing Frequency:** The new policy, relating to renewal expiration dates, will have no impact on stack testing frequency, as the stack test frequency will remain every five years. The stack testing language in operating permits will be revised, consistent with this policy change, to ensure that the testing will continue to occur at the intended frequency. For an example, see the highlighted text in the attached template for stack testing requirements.

In addition, the text below defining “testing every 5 years” will be added in the General Provisions section of the operating permits.

**Testing every 5 years** shall be defined as no later than the end of the 60<sup>th</sup> month after the first required and each subsequent stack test was completed for the new or modified source.

## WHY IS NJDEP ISSUING THIS ADVISORY?

To clarify the new General Provisions language that defines stack testing every 5 years in Title V Operating Permits.

### NEW LANGUAGE BEING ENTERED IN TITLE V AIR PERMITS?

The new language currently being put in Air Operating Permit General Provisions defines testing every 5 years as follows:

**“Testing every 5 years shall be defined as no later than the end of the 60th month after the first required and each subsequent stack test was completed for the new or modified source.”**

To ensure consistency in how this will be interpreted, the Division of Air Enforcement (DAE) is clarifying that the initial stack test will establish the **“ANCHOR POINT”** from which all future (5-year) test deadlines are to be determined, the end of the 60th month after this initial test date, and every five years from this date moving forward.

For example, if the initial test is conducted on October 1, 2024, then the first 5-year test is due on October 31, 2029, the second 5-year test is due on October 31, 2034, and so on.

Conducting a subsequent 5-year stack test early or late does not change the 5-year test deadline anchor, nor would additional tests that are conducted pursuant to an Enforcement Action. However, with the approval of the applicable DAE Regional Enforcement Office, an additional test may also be counted as the next 5-year test if the test is conducted within 18 months of the next 5-year test due date, and this additional test satisfies all requirements of the 5-year test.



### SIGNIFICANT MODIFICATION AND TESTING DATES?

A test required by a Significant Modification will act as a new initial test and establish a new “ANCHOR POINT” following the procedures above if this test is also a comprehensive test that covers all requirements of a 5-year test.

### EXISTING OR EXPIRED TITLE V AIR PERMITS?

Existing Permits without the new language will continue to follow the deadlines in their Permits, and if the Permit is expired, will follow the deadlines in the 2022 Compliance Advisory that can be found [here](#). To address the transition from the prior 5-year testing language in Permits (based on the BOP expiration date) to the current language referenced above, the “ANCHOR POINT” will be established by the date of the most recent 5-year test conducted prior to the change in testing language.

# Examples of a Subsequent or Additional Test

(Using due date for next 5-year test from the Compliance Advisory example, 10/31/29)

**Scenario 1:** 5-year test (TSP, NO<sub>x</sub>, CO and VOC) conducted 4/15/29 (prior to due date).

- Next 5-year test still due by 10/31/34.

**Scenario 2:** 5-year test (TSP, NO<sub>x</sub>, CO and VOC) conducted 1/15/30 (after due date).

- Enforcement action for late test.
- Next 5-year test still due by 10/31/34.

**Scenario 3:** Test in Scenario 2 above exceeds TSP limit.

- Enforcement action for TSP emission exceedance. Retest for just TSP required.
- Retest conducted on 7/15/33 for just TSP (within 18 months of next 5-year test due date, but not all required 5-year contaminants). Next 5-year test still due by 10/31/34.

**Scenario 4:** Test in Scenario 2 above exceeds TSP limit.

- Enforcement action for emission exceedance. Retest for just TSP required.
- Retest conducted on 7/15/33 proactively for TSP, NO<sub>x</sub>, CO and VOC (within 18 months of next 5-year test due date and all required 5-year contaminants). With the approval of the Regional Enforcement Office, retest can also count as the next 5-year test.
- Regardless of accepting this retest as a 5-year test, the “Anchor Point” remains unchanged.

# Real World Example for an Expired Permit

**Title V Permit Expiration Date:** 6/23/20 (Expired, operating under application shield, current Permit term ends 6/23/25).

**Due date for stack testing based on 2022 Compliance Advisory:** 42 months after expiration of the Permit,  $6/23/20 + 42 \text{ months} = 12/23/23$ .

**Last Stack Test Completion Date:** 7/28/23 (On time under the 2022 Compliance Advisory).

**Scenario 1:** Permit Renewed before 6/23/25 with New 5-Year Testing Language.

- Transition Period, last stack test (7/28/23) becomes “Anchor Point”.
- Next test due 60 months after the end of month test was conducted ( $7/31/23 + 60 \text{ months} = 7/31/28$ ).

**Scenario 2:** Permit Remains Expired after 6/23/25 without New 5-Year Testing Language.

- 2022 Compliance Advisory remains in effect.
- Next test due 42 months after expiration of the current Permit term ( $6/23/25 + 42 \text{ months} = 12/23/27$ ).