



FY 2020-2021 Agency Priority Goal Action Plan

Accelerate Permitting-Related Decisions

Goal Leader:

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Overview

Goal Statement

- **Accelerate permitting-related decisions.** By September 30, 2021, EPA will reduce the backlog of new permitting-related decisions to zero from a baseline of 65;¹ and reduce the backlog of permit renewals by 50% from a baseline of 417.²

Challenge

- Delays in permit issuance can be caused by factors that include incomplete facility application information; complex technical and regulatory issues; public interest; and required consultations (endangered species, tribal/state issues).

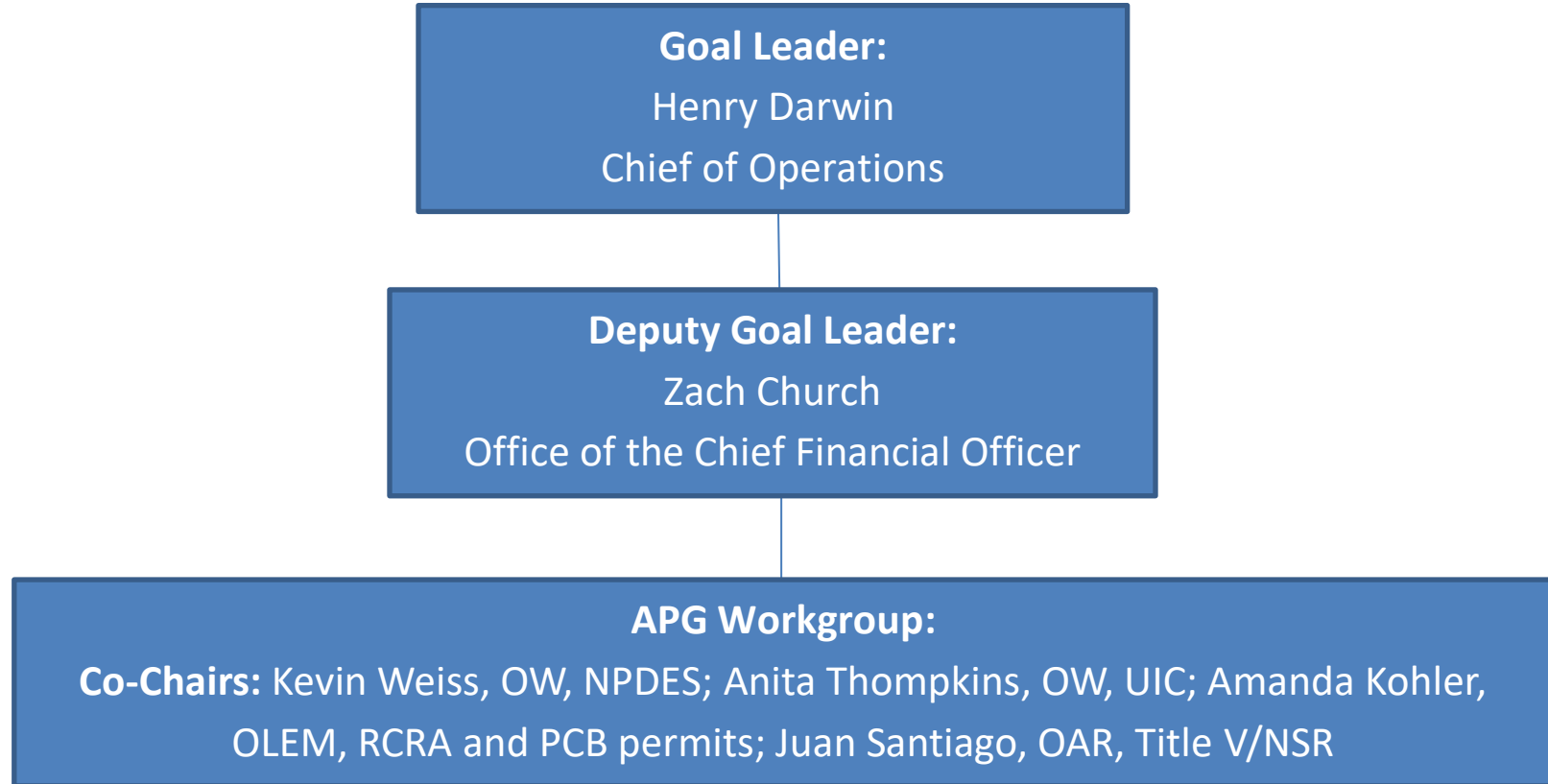
Opportunity

- Targeted improvements in permitting processes can improve environmental outcomes, accelerate economic growth, and save time and resources overall by reducing delay, wasted effort, and avoidable disputes.

¹ This measure tracks the sum of new permit applications that are over six months old (for Clean Water Act National Pollutant Elimination Discharge System [NPDES], Safe Drinking Water Act Underground Injection Control [UIC], Resource Conservation Recovery Act [RCRA Subtitle C] and approvals to store, decontaminate or dispose of Polychlorinated Biphenyls [PCBs]) and the sum of New Source Review (NSR and Title V permits under the Clean Air Act that have been pending for longer than the statutory timeframes (12 and 18 months, respectively). For all permit types listed above except for NSR and Title V, the time for a permitting-related decision is calculated from the date of receipt of an initial permit application to the date of a permit decision. For NSR and Title V, the time for a permitting-related decision is calculated from the date of receipt of a complete application (consistent with the statute) to the date of a permit decision.

² This measure applies to RCRA, NPDES, UIC, Title V, and PCB approvals. This measure tracks the following: (1) for NPDES, RCRA, PCBs, and UIC, the sum of existing permits that have passed their date of expiration and are awaiting reissuance; and (2) for Title V, the sum of existing permits that have expired and for which complete permit applications have been received and have been pending for over 18 months (timeframe allowed under the statute).

Leadership & Implementation Team



Goal Structure and Strategies



This Action Plan builds on the successful implementation of EPA's FY 2018-2019 Permitting Agency Priority Goal in which the Agency reduced the backlog of new permitting-related decisions in key programs that exceed six months by 65%. In FY 2020-2021, EPA will continue to improve the efficiency and effectiveness of its permitting programs through the following strategies and will explore additional opportunities to improve federal environmental permitting overall.

Strategy 1 – Identify and Implement Best Practices. Identify and develop tools, training, and guidance to assist applicants, permit writers, and EPA regional offices in facilitating permitting decisions.

Strategy 2 – Track Results and Target Improvements. Continue to gather, analyze and use agency-wide permitting data to track results and target areas for improvement.

Summary of Progress – FY 2020 Q1

EPA reduced the backlog of new permit applications to 59 and the backlog of permit renewals to 415, missing the FY 2020 Q1 targets of 57 and 391, respectively.

Indicator	Jumping Off Point		FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4	Pref Dir	Trend
Number of new permit applications in backlog	65	Target	57	49	41	33	25	17	9	0	↓	
		Actual	59									
Number of permit renewals in backlog	417	Target	391	365	339	313	287	261	235	209	↓	
		Actual	415									

Accomplishments:



- EPA processed 16 UIC permit applications (15 new permits and one renewal).
- EPA's UIC Program finalized and made available a Response to Comment library that EPA will use in making permitting decisions.
- EPA reduced the backlog of existing NPDES permits from 373 to 360 and prevented an increase to the new permit backlog.
- EPA hosted two webinars to assist EPA's NPDES permit applicants with permit applications and increase rates of completeness. These webinars were recorded and posted to the EPA website.
- EPA finalized and began implementing a national backlog elimination strategy.
- EPA increased content and access to the NPDES Permit Writer's SharePoint site to provide easy access to information helpful to permit writers.
- EPA began collecting Endangered Species Act consultation data to identify potential problems and provide assistance where needed.

Challenges:

- For NPDES permit renewals, EPA Region 1 has the vast majority of the backlog work. EPA will address the backlog through contractor support and workload sharing.

Summary of Progress – FY 2020 Q2

EPA reduced the backlog of new permit applications to 54 and the backlog of permit renewals to 413, missing the FY 2020 Q2 targets of 49 and 365, respectively.

Strategy	Jumping Off Point		FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4	Pref Direct	Trend
Number of new permit applications in backlog	65	Target	57	49	41	33	25	17	9	0	↓	
		Actual	59	54								
Number of permit renewals in backlog	417	Target	391	365	339	313	287	261	235	209	↓	
		Actual	415	413								

Accomplishments:

- NPDES:
 - EPA processed 20 new permit applications. The NPDES program has 26 remaining backlogged applications for new permits. Of these 26, 16 have now been public noticed and four are pending outcome of litigation on jurisdiction. The remaining six permits are in preparation or awaiting policy determination.
 - EPA began analyzing the collected Endangered Species Act consultation data and coordinated with U.S. Fish and Wildlife Service (FWS) to organize a training for NPDES regional permit writer staff. The training event was postponed due to COVID-19 and the Agency is working with FWS to reschedule this event virtually.
 - EPA began collecting more information on existing permits under the NPDES program, including schedule for issuance and reasons for delay, with increased oversight in areas with the largest permit backlog.
 - EPA drafted application completeness checklists for NPDES permit applicants to increase rates of application completeness.
- UIC:
 - EPA processed 22 new permit applications. The UIC program has 14 remaining backlogged applications for new permits. Of these 14, five have now been public noticed and one is pending outcome of litigation on jurisdiction. The remaining eight permits are in preparation or awaiting policy determination.
 - EPA created a user's guide for the new UIC Response to Comment library that EPA now uses in making permitting decisions.
- NSR: EPA eliminated three permit applications from backlog by working with applicants to withdraw these incomplete permit applications.
- Title V: EPA eliminated eight initial permit applications from the backlog by issuing four permits and working with sources to withdraw application for another four permits due to synthetic minor NSR permits being issued for those sources.

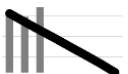
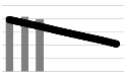
Summary of Progress – FY 2020 Q2 (continued)

Challenges:

- NPDES:
 - EPA Region 1 has the vast majority of the permit renewal backlog. EPA Headquarters has increased oversight of the Region 1 program and continues to work with them to address the permit backlog.
 - EPA is exploring ways to host public meetings via web conferencing. The Agency continues to identify alternative approaches to address challenges that have resulted due to social distancing
- NSR: Regions 1 and 6 are not able to issue a couple of new permits because they depend on environmental reviews from other federal agencies that are on schedule's outside the Agency's control. EPA will continue to communicate with the applicable agencies to advance these environmental reviews.
- Title V:
 - Six permit renewal applications were delayed due to: (1) complex public comments being received on two permits; (2) delay in the issuance of a synthetic minor construction permit by a delegated tribal permitting authority; (3) two permits delayed due to prioritization of issuing minor construction permits; and (4) one permit delayed due to work on templates for issuing permits.
 - EPA expects to have 20 backlogged new permit applications at the end of the FY 2020. Twenty-two initial permit applications will become backlogged this fiscal year due to many oil and gas sources applying for Title V permits even though they will no longer need Title V permits within one to two years. EPA began with 12 backlogged initial Title V applications and will still end up with 20 backlogged permit applications despite eliminating 14 initial Title V permit applications from the backlog. In Fall 2020, EPA plans to start working on a national rulemaking for a Title V general permit for these oil in gas sources.

Summary of Progress – FY 2020 Q3

EPA increased the backlog of new permit applications to 63 and reduced the backlog of permit renewals to 397, missing the FY 2020 Q3 targets of 41 and 339, respectively.

Strategy	Jumping Off Point		FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4	Pref Direct	Trend
Number of new permit applications in backlog	65	Target	57	49	41	33	25	17	9	0	↓	
		Actual	59	54	63							
Number of permit renewals in backlog	417	Target	391	365	339	313	287	261	235	209	↓	
		Actual	415	413	397							

Accomplishments:

○ NPDES:

- EPA processed five applications for new permits and 60 for existing permits. The NPDES Program has 31 remaining backlogged applications for new permits and 347 backlogged existing permits. Of the 31 pending applications for new permits in the backlog, 16 have now been public noticed and four are pending the outcome of litigation on jurisdiction. The remaining 11 applications are in preparation, may be withdrawn, or are awaiting policy determination. Of the 347 backlogged existing permits, 28 have been public noticed and 84 additional permits are currently being drafted. Several reasons for delays in issuance of existing permits include: pending policies regarding emerging contaminants, complex permitting issues, and incomplete applications.
- EPA finalized application completeness checklists for NPDES permit applicants to increase rates of application completeness.
- EPA hosted a national management meeting to discuss FY 2020 backlog strategies, identify areas in need of targeted training to minimize delays, and share best management practices.
- EPA Headquarters provided clarity to EPA regional offices on which permits are included in the existing permit backlog.
- EPA delivered several trainings and workshops, including a pretreatment workshop.
- EPA Headquarters worked with EPA regional offices and states to provide technical assistance on hosting online public hearings that comply with federal requirements to minimize delays in permit issuance.
- EPA conducted an in-depth analysis of 48 permits backlogged for more than 10 years to address obstacles and issue the permits.

○ UIC:

- EPA processed two new permit applications. The UIC program has 17 remaining backlogged applications for new permits. Of these 17, four have now initiated public notice and one is pending outcome of litigation on jurisdiction. The remaining 12 permits are in preparation or awaiting policy determination.
- EPA finalized a set of template letters for EPA regional offices to use to more efficiently request information from permittees on permit renewal applications.
- EPA developed a document that assists EPA regional offices in planning and hosting virtual public hearings for UIC draft permits. Due to COVID-19, EPA regional offices need to hold these public hearings virtually rather than in person.

Summary of Progress – FY 2020 Q3 (continued)

- Title V:

- EPA eliminated seven initial permit applications by issuing one permit and working with sources to withdraw applications for another six permits due to synthetic minor NSR permits being issued for those sources or those sources dropping below title V applicability thresholds. EPA also eliminated six renewal permit applications by issuing six renewal permits.

Challenges:

- NPDES:

- EPA identified several new permits not previously tracked due to a data quality problem. Most of these will be issued and removed from the backlog in Q4.
- EPA Regions 1 and 10 have the vast majority of the existing permit backlog. EPA Headquarters hosts monthly meetings with both regions to discuss the backlog data, identify challenges, and facilitate policy and technical solutions.
- EPA continues to work on national policies regarding emerging contaminants, and other recently published regulations and court decisions that prevent permit issuance.

- UIC:

- Some draft permit applications received high levels of public interest (e.g., Dewey Burdock) that required extra processing time to address public comments. EPA has created a comment response library and has also provided resources to assist with the processing of large volumes of comments.
- Other challenges include applicants being non-responsive to EPA's request for additional necessary technical information. EPA has developed template letters to more efficiently communicate with applicants. Additionally, EPA has developed (and continues to develop) resources aimed at reducing the need for information requests.
- EPA anticipates potential impacts from COVID-19 on the average permit processing time. EPA is required to consult with tribal governments as well as other federal agencies (e.g. FWS for the endangered species act [ESA]) in the processing of UIC permit applications. Those third parties have not been as timely due to their competing priorities due to COVID-19. Additionally, applicants are requesting additional time for responding to requests for information.

- NSR:

- Regions 1 and 6 continue to not be able to issue a couple of new permits because they depend on environmental reviews from other federal agencies that are on schedules outside the Agency's control. Another permit has been added to the backlog because of challenges with the issuance of a new compliance method for this synthetic minor permit based on changes made to the facility.

- Title V:

- EPA does not expect to issue the three Region 9 renewal permits by end of Q4 FY 2020. One of the renewal permits depended on a tribal permitting authority issuing a minor NSR permit to get the source out of title V. The tribe has indicated they will not be able to issue that permit in the next year. Therefore, Region 9 has to issue the title V permit and does not expect to have that completed until FY 2021. The other two renewal applications that were supposed to be issued in Q4 FY 2020 were delayed due to staff being out on medical leave and delays with review of the permit. Region 9 expects to issue these permits by end of first quarter FY 2021.

Key Milestones

Strategy 1 – Identify and Implement Best Practices

Key Milestones	Due Date	Status	Change from Last Quarter	Comments
(UIC Permitting Program) Continue to identify / develop tools and resources to assist all regional offices in responding to comments.	Q2 FY 2020	Complete	No Change	Developed and distributed a concise user's guide for the new UIC response to comments library.
(UIC Class II) Identify minimum materials (i.e., data point) that need to be submitted by an applicant to make a permitting decision.	Q3 FY 2020	Complete	No Change	
(NPDES) Deliver trainings focused on the newly updated NPDES application forms (aimed at decreasing the submittal of incomplete information).	Q2 FY 2020	Complete	No Change	Hosted two webinars to assist EPA's NPDES permit applicants with the completion and submission of their NPDES permit application forms to increase rates of application completeness. These webinars were recorded and posted to the EPA website.
(NPDES) Implement national strategy for eliminating the backlog of EPA-Issued NPDES permits.	Q2 FY 2020	Complete	No Change	Began implementation of the national backlog elimination strategy and will continue implementing to help resolve the permit backlog.
(NPDES) Increase awareness of the NPDES Permit Writers' SharePoint site among EPA NPDES permit writers.	Q2 FY 2020	Complete	No Change	Continued to increase content and access to the SharePoint site and will keep expanding it moving forward.
(UIC Class II) Develop a series of checklists to support permit writers and permit applicants through each step of the permitting process.	Q3 FY 2020	Delayed	Changed from On Track to Delayed	Making final changes to the checklists after incorporating extensive regional office feedback.
(NPDES) Develop and deliver training on the ESA consultation process to EPA regional office permitting staff.	Q4 FY 2020	On Track	No Change	First training was initially scheduled for March 2020, but was postponed due to COVID-19. EPA is exploring options for rescheduling, including possible virtual trainings. EPA must coordinate with the U.S. Fish and Wildlife Service on the training and they would like to delay until an in-person training is possible.
(NPDES) Complete EPA problem-solving training in an effort to reevaluate the causes of permitting delays (root causes) and determine additional potential	Q4 FY 2020	On Track	N/A	

Key Milestones (continued)

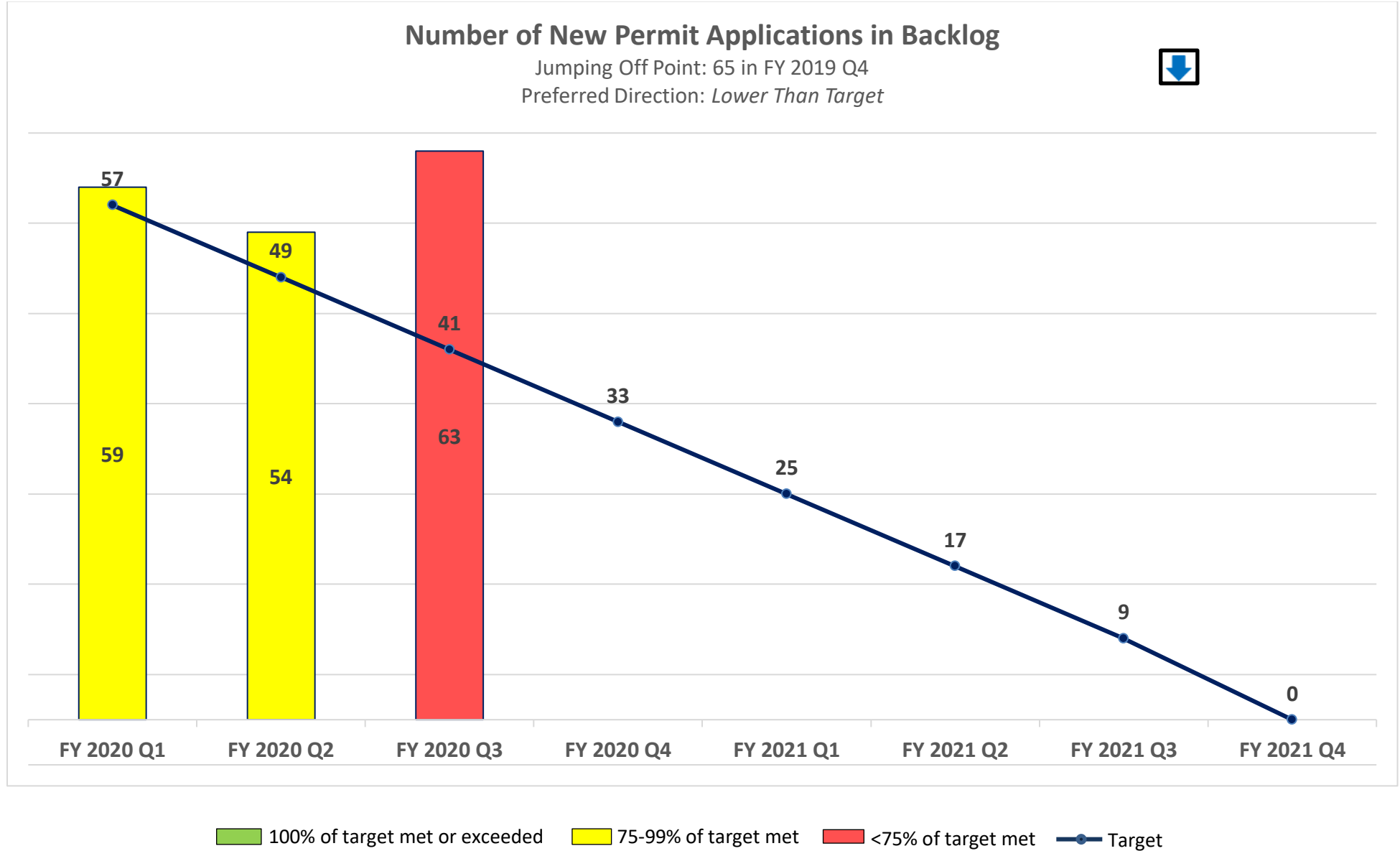
Key Milestones	Due Date	Status	Change from Last Quarter	Comments
solutions (countermeasures) that have not been identified to date.				
(UIC Class II) Develop user guide to help applicants through the application process.	Q4 FY 2020	On Track	No Change	
(UIC Permitting Program) Develop a letter template for EPA regional offices to use to more efficiently request information from permittees on permit renewal applications.	Q4 FY 2020	Complete	Changed from On Track to Complete	
(UIC Permitting Program) Develop permit writer training on financial assurance.	Q1 FY 2021	On Track	No Change	Story boards completed for Adobe Captivate e-learning modules.
(UIC Permitting Program) Develop resources to support EPA regional offices in holding virtual public hearings for draft UIC permits.	Q3 FY 2020	Complete	New	The UIC Program reacted quickly to the challenge that COVID-19 presented by developing a document to help EPA regional offices in planning and hosting virtual public hearings. The Program will continue to improve the document as the program gains experience with virtual public hearings.
(RCRA) Develop permit applicants' checklist for federal regulations and integrate in automated tool which will improve accuracy and completeness of permit applications.	Q4 FY 2020	On Track	No Change	
(NSR) Eliminate the backlog of new NSR permit applications.	Q4 FY 2021	On Track	No Change	EPA continues to actively work to remove NSR permits from the backlog, especially incomplete permit applications that were not resubmitted.
(Title V) Develop a general permit for oil and gas sources that will phase out of Title V in a one to two years.	Q4 FY 2021	Not Yet Started	No Change	EPA expects to be able to begin work on the general permit rulemaking in Fall 2020. Currently, the same staff that would promulgate the rule are working on issuing permits.
(Title V) Issue 8 Title V renewal permits.	Q4 FY 2020	Delayed	Changed from On Track to Delayed	Region 8 plans to issue three permits by the end of April 2020. Region 8 and 9 will issue another three permits between then and August 2020. Region 9 will not be able to issue two of the renewal permits by end of FY 2020 as planned. These permits will be issued in FY 2021.

Key Milestones (continued)

Strategy 2 – Track Results and Target Improvements

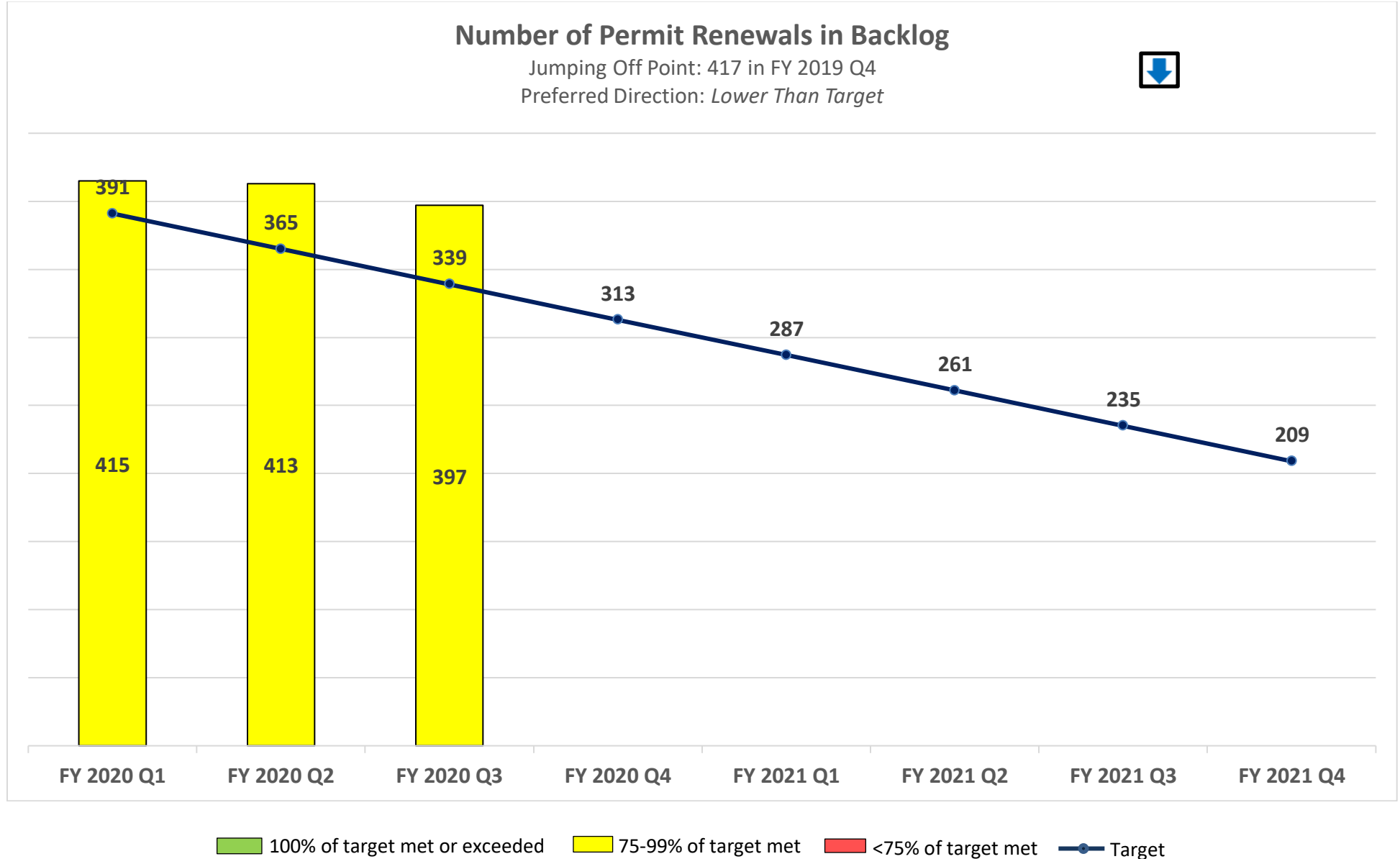
Key Milestones	Due Date	Status	Change from Last Quarter	Comments
(NPDES) Launch data collection on application completeness for newly updated NPDES application forms.	Q2 FY 2020	Complete	No Change	
(NPDES) Analyze data on application completeness for newly updated NPDES applications forms and identify areas for improvement.	Q3 FY 2020	Complete	Changed from On Track to Complete	Analyzed data on applications received as incomplete and identified the top areas of concern and the average length of time to resolve these issues.
(NPDES) Use the results of the data analysis on application completeness for newly updated NPDES applications forms to identify next steps, such as whether additional training or outreach to regulated entities is needed.	Q4 FY 2020	On Track	New	
Conduct reviews of agency-wide permitting results to identify potential areas for improvement.	Quarterly	On Track	No Change	

Key Indicators



The jumping off point for FY 2020 (65) is higher than the total permit number reported in September 2019 (52). This increase is due to EPA adding Clean Air Act (CAA) permits to this APG. EPA did not include CAA permits in the FY 2018-2019 APG.

Key Indicators (continued)



Additional Information

Purpose of Measure

- To inform on EPA's commitment to provide consistency and certainty to the regulated community in executing its responsibilities.

Methodology

- New permits: For NPDES, UIC, RCRA Subtitle C, and approvals to decontaminate, store, or dispose of PCBs, EPA is tracking the number of applications that are over 180 days old. For Clean Air Act permits (NSR and Title V), EPA is tracking complete permit applications that are pending beyond statutory timeframes for permit issuance (12 months and 18 months beyond the date of receipt of complete application, respectively).
- Existing permits: For NPDES, UIC, RCRA Subtitle C, and approvals to decontaminate, store, or dispose of PCBs, EPA is tracking the number of permits that have passed their date of expiration and are awaiting reissuance. For Clean Air Act Title V permits, EPA is tracking the number of expired permits for which complete permit applications have been pending for over 18 months.
- EPA checks the accuracy of the data monthly through EPA Lean Management System (ELMS) reporting (bowling chart).

Performance Measure Term Definitions

- The permitting-related decision timeframe is measured from the date a permit application is received by the EPA regional permitting office to the date of a permitting-related decision.
- A permitting-related decision refers to a decision to approve or disapprove a permit application.

A Data Quality Record has been developed for the strategic measure associated with this Agency Priority Goal:

<https://www.epa.gov/sites/production/files/2019-06/documents/dqr-3-4-permitting.pdf>.

Contributing Programs (U.S. EPA)

- Office of the Chief Financial Officer:
 - Collect, analyze, and report data; review existing policies and develop new policies, as needed; facilitate and/or participate in Lean events and follow-up, as needed.
- Regional and program offices (Office of Water, Office of Air and Radiation, Office of Land and Emergency Management):
 - Report permitting data; participate in Lean events and implement recommended solutions; update policies, as needed.