

**Ombudsman Annual Report to the Public  
January 1, – December 31, 2002**

This report will detail the work of the Department of Environmental Management's Ombudsman during January 1 to December 31, 2002. The primary responsibility of the Ombudsman is to help the Department improve its effectiveness, efficiency and accountability, and to increase both external and internal support. The work effort of the Ombudsman can be broadly broken into two categories. Internal activities include work done to improve internal processes within the agency. External activities include projects that enhance communication opportunities with DEM's external stakeholders.

**I. INTERNAL ACTIVITIES**

During this time, the Ombudsman has been involved in four major DEM internal projects. Significant effort was expended on the following activities:

- A. Program Permit Streamlining**
- B. Public Records Management**
- C. Morale Focus Group**
- D. Quality Management Coordinator**

**A. Program Permit Streamlining**

The Department of Environmental Management is committed to continuously improving its performance. In previous years DEM, through the assistance of the Ombudsman, reviewed the Wetlands, ISDS, and the Waste Site Remediation Programs. In 2002 the Air Pre-construction Permitting Program and the Hazardous Waste Fee Task Forces were completed. Task Forces are used to study the outstanding areas of concern in the program areas and include members of the regulated community, impacted municipal, state and federal agencies and staff members of DEM programs. The Task Forces focused on ways to improve the program by suggesting administrative, policy and regulatory program changes.

**1. Air Pre-construction Permit Streamlining Task Force**

In November 2001, DEM formed the Air Pre-construction Permit Streamlining Task Force. This program was chosen because backlogs are frequently encountered in the application process. The task force completed its work and a final report was submitted in August 2002 and recommended ways to process permits faster and but also maintain a high level of environmental protection. The major recommendations of the task force include the following:

- ◆ A "Super Application" process will be developed that allows facilities to submit more comprehensive permit applications including a proposed draft permit. In exchange for a more comprehensive application, these projects would be assigned to the first available staff person for review and processed shortly after they were received.

- ◆ General or Temporary Permits or permits by rule will be developed for small degreasers, drycleaners, emergency generators and future regulatory source categories that regulates many facilities and use technology requirements to determine compliance.
- ◆ DEM will amend its regulations to address temporary sources such as rental boilers or temporary generators.
- ◆ DEM will also evaluate self-certification opportunities that could be used in an Environmental Results Program for facilities, instead of general permits.

DEM will provide or develop additional outreach tools in order to clarify the permitting process and will include the following:

- ◆ The Office of Technical and Customer Assistance will update the “Guide to Environmental Permits and Approvals”. This document briefly describes the DEM review process, application information requirements and guidance on applicability requirements.
- ◆ DEM has provided links on its website to the major state and EPA clearinghouses along with permitting contact information in the NESCAUM states. DEM will also pursue setting up a regional BACT Clearinghouse with the NESCAUM Board of Directors.
- ◆ DEM has posted copies of current permits issued on the DEM homepage. DEM has also posted an index of all permits previously issued.

## **2. Hazardous Waste Fee Task Force**

DEM proposed establishing fees for companies that generate hazardous waste. DEM initially drafted a fee schedule for the hazardous waste program based on three tiers of generators. This schedule was discussed at the Business Roundtable meeting in February 2002. The group suggested that DEM consider alternative approaches.

DEM initiated a stakeholder group to discuss the fee issue and amended its hazardous waste regulations that became effective January 1, 2003. Changes to the regulations were based on discussions of these meetings and comments received at the public hearing.

Each generator of hazardous waste is required to pay a fee of two cents per pound or sixteen cents per gallon. This fee applies to all wastes generated in Rhode Island and shipped on a hazardous waste manifest. The fee is collected by the hazardous waste transporter who then pays DEM. It was the recommendation of the Task Force that transporters have the administrative ability to collect this fee and this proposal reduces the regulatory burden of the generators. The regulations allowed exemptions to the fee including precious metal bearing waste and household hazardous waste.

## **B. Public Records Management**

The Ombudsman identified record management as an issue that needs to be addressed. Record management is an underlying administrative function that affects all phases of work being done in the agency. Most employees are in the position of creating, reviewing,

processing or filing records. DEM should provide all employees with the tools needed to ensure records are being properly handled. Following good records management practices will help to meet legal requirements and will benefit the agency in many ways such as:

- Improving access to information;
- Reducing the amount of file space;
- Reducing operating costs;
- Minimizing litigation risks;
- Safeguarding vital information;
- Supporting management decision making; and,
- Preserving DEM history.

Records need to be available to assist DEM in achieving its mission of protecting and managing the environmental resources of the state. A document control system needs to be developed to track a document during its life cycle, i.e. creation / collection, record maintenance and use and record disposition i.e., archiving or destruction.

The Ombudsman is working with a committee led by the Associate Director of Policy and Administration to develop a record management policy that will be beneficial to the agency and meet the requirements of state law. DEM is working with a representative from the Secretary of States Office. DEM is the first agency to tackle this problem and the policy developed may be used as the template for other agencies. The Ombudsman developed a draft policy that is undergoing agency review. It is anticipated that the policy will be finalized in the spring of 2003.

The primary historical document in the agency has been paper records. Recently DEM and other governmental bodies have been conducting more of their business practices using electronic documents. This policy will ultimately address these documents.

### **C. Morale Focus Group**

Senior Staff retreats identified employee morale as one issue that needed further investigation. The Ombudsman convened an employee-working group charged with identifying departmental problems and potential solutions.

The working group thought that enhancing internal communications could resolve a lot of employee morale concerns. The group thought that staff was not always informed of decisions made at the departmental level. This is especially true in the divisions that are not located within the Foundry complex. In order to enhance communications the following ideas were adopted:

- ◆ The senior staff's meeting notes have been expanded to include more details, where appropriate. These notes are being distributed to all offices, including DEM sites located off the Foundry campus.

- ◆ An employee-based newsletter was developed. The newsletter informs employees about DEM events, accomplishments and topics of general interest. The newsletter was published quarterly.
- ◆ An Intranet was developed as a communication tool for staff. Due to fiscal restraints, DEM was not able to develop a web-based Intranet. The existing Outlook software will be used to share information. This tool will ultimately place information, such as policies, directives, senior staff meeting notes, or any information that needs to be distributed to staff. The Employee Handbook including in-service guidance, computer use policy, harassment policy, and any other employee related department policy would be posted at this site.

The group discussed many other issues and recommended that other processes within DEM be changed. This working group will continue to meet on an as needed basis to discuss morale issues.

#### **D. Quality Management Manager**

The environmental regulatory programs have the responsibility to implement and enforce environmental programs. EPA provides grant funding to assist the state in implementing these programs. One condition of these grants is to develop a Quality Management Plan. DEM needs data of known quality to enforce regulations and to develop environmental policy that can withstand scientific scrutiny. The DEM Quality Management Plan details the procedures that are used to ensure that data is collected in a scientifically valid manner. The DEM plan was developed and sent to EPA for approval in May 2002 and subsequently approved in August.

The Ombudsman is the Quality Management Manager for the agency. Responsibilities include:

- Providing oversight of all quality assurance related field and laboratory functions;
- Ensuring that all contracts and agreements conform to accepted quality assurance / quality control procedures;
- Developing a staff training program to educate them on the requirements of the Quality Management Plan;
- Developing procedures to conduct Management Reviews and Project Audits. These processes are used to ensure that data is collected in a scientifically valid manner.

## **II. EXTERNAL ACTIVITIES**

The Ombudsman position should be proactive and listen to and communicate with members of the regulated and environmental community and the public. In order to be responsive to these groups the Ombudsman needs to collect information about their concerns about the DEM. The following strategies have used to collect this information:

- A. Public Outreach Activities**
- B. Ombudsman Website Development**

- C. Complaint Tracking Reports**
- D. Public Policies, Permits and Grant Application Accessibility**
- E. Increasing Public Access to the DEM Website**

**A. Public Outreach Activities**

One of my responsibilities is to assess public concerns about the operation of the Department. There is a passive component in this assessment where I respond to public concerns through phone calls or e-mails. Active outreach activities include coordinating the following activities:

- 1. Roundtable Meetings**
- 2. Rhode Island Association of Environmental Managers Meeting**
- 3. Environmental Education**
- 4. RISEP /DEM Training Seminars**
- 5. Customer Satisfaction Survey**

**1. Roundtable Meetings**

The Business and Environmental Roundtables are important feedback mechanisms for DEM. They provide the regulated and environmental communities the opportunity to interact with the Director and provide input in the resolution of environmental issues. The Ombudsman is responsible for developing the agendas and tracking the issues between the meetings.

**a. Business Roundtable**

I coordinated four meeting of the Business Roundtable last year. DEM provided updates to the group on the following issues:

- ◆ State and Federal Brownfields grant program initiatives
- ◆ DEM Regulatory Agenda
- ◆ Environmental legislative proposals
- ◆ DEM budget
- ◆ Drought management
- ◆ Greenhouse gas initiative
- ◆ Mercury program
- ◆ Air permit streamlining task force

The meeting also provided an opportunity to discuss other issues at length and included the following topics:

- ◆ Environmental results / performance track program
- ◆ Hazardous waste generators fees
- ◆ Fuel oil tank installation guidance
- ◆ Bio-Fuel discussion
- ◆ UST program regulation development
- ◆ Air toxics regulatory proposal

As a result of these meetings:

- ◆ DEM set up a Task Force to develop a proposal for Hazardous Waste fees. This group assisted DEM in developing a regulation revision that became effective January 1, 2003.
- ◆ DEM and the Oil Heat Institute developed a brochure that explains the proper procedure to install oil tanks.
- ◆ DEM is starting a stakeholder process to review DEM's air toxics regulations.

For more information concerning the Business Roundtable click onto the Ombudsman's Website and go to the Business Roundtable section, i.e., <http://www.state.ri.us/dem/programs/ombuds/bround/index.htm>

## **b. Environmental Roundtable**

I coordinated four meeting of the Business Roundtable last year. DEM provided updates to the group on the following issues:

- ◆ DEM legislative proposals
- ◆ DEM budget
- ◆ Watershed program
- ◆ Brownfields
- ◆ DEM enforcement efforts
- ◆ Mercury regulations
- ◆ Energy/greenhouse gas program
- ◆ Quonset Point

The meeting also provided an opportunity to discuss other issues at length and included the following topics:

- ◆ Supplemental Environmental Projects
- ◆ Anti-litter Initiatives
- ◆ Drought Management Issues including minimum stream flow standards including, data confidentiality and legal issues
- ◆ The impacts of the gasoline additive MTBE
- ◆ Bird Depredation
- ◆ Cesspool Removal
- ◆ Fisheries Management
- ◆ Watershed Planning
- ◆ State Comprehensive Outdoor Recreation Plan
- ◆ Solid Waste Planning
- ◆ Ozone Alert procedures
- ◆ Land Protection Report

Because of these meetings DEM initiated a discussion about revision of the state comprehensive solid waste plan. After this effort began, the RI Resource Recovery

Corporation agreed to revise this plan and is coordinating their process with DEM. For more information concerning the Environmental Roundtable click onto the Ombudsman's Website and go to the Environmental Roundtable section, i.e., <http://www.state.ri.us/dem/programs/ombuds/eround/index.htm>

## **2. Rhode Island Association of Environmental Managers Meeting**

The Ombudsman has worked with the Rhode Island Association of Environmental Managers and has provided them with speakers from DEM to discuss a number of topics including the Air Toxics Program regulation revisions, updates on the Air Pre-construction Permit streamlining task force and the Hazardous Waste Transporter fee proposal.

## **3. Environmental Education**

DEM is responsible for administering the state environmental program. It is expected that the public will visit the DEM site for the latest environmental information. The DEM website is a comprehensive site and focuses on issues that are a concern to the state. Until recently there was little attempt to provide the public with material of a general environmental nature.

The Ombudsman developed environmental education content that can be used by the public to investigate issues related to the environment. The site structure is organized with specific areas for teachers and students and is broken down by elementary, middle school and high school resources, environmental publication. Environmental topics range from acid rain to wetlands. For additional information about this site, go to the DEM webpage located at <http://www.state.ri.us/dem/index.htm> and click onto Topics and then to Educational Resources. The Ombudsman will update this site four times a year to keep the content fresh.

## **4. RISEP /DEM Training Seminars**

The Waste Site Remediation Permit Streamlining Task Force recommended DEM to work with organizations to co-sponsor seminars on issues of interest. The Ombudsman coordinated a seminar using personnel from the DEM and the Rhode Island Society of Environmental Professionals (RISEP) as trainers. The first seminar on the Marginal Risk Policy was held on January 29, 2002 and was geared toward training all levels of the professional service community.

Implementation of the Marginal Risk Site Policy will streamline the way DEM reviews projects that do not pose significant environmental or human health risks. This will be a more efficient process and resources that are currently used to review "marginal risk sites" can be diverted to reviewing projects that have a significant environmental impact.

## 5. DEM Environmental Permitting Customer Satisfaction Survey

The Department of Environmental Management issues approximately ten thousand environmental permits during the course of a year. DEM does not have a program to assess customer satisfaction in the environmental permitting programs. The Ombudsman conducted a survey of the major permit applicants of the environmental programs in August and September of 2002.

Table 1 is a summary of the customer service results for the programs that were evaluated. Based on this survey the Office of Waste Management provided good to excellent customer service with their permitting programs. The ISDS program was rated as needing to improve the service they provide. The Wetlands Program survey response rate was just below that needed to be able to be considered a statistical sample. However, based on the survey results, it appears this program also needs to increase customer service provided to applicants.

The Air Resources Operating Permit program issues less than twenty permits in a year. Twelve of the nineteen permittees returned their surveys. Based on the information collected, the program provided excellent customer service to the respondents of the survey.

The remaining programs did not receive sufficient customer responses to determine the level of customer service provided. The ratings noted on Table 1 are the summary of comments received from all programs and may not represent the customer service provided to all permit applicants.

Table 1 Permitting Program Survey Results			
	Pre-application Meetings	Permit Application Review and Determinations	Overall Satisfaction
Air Operating Permit	Excellent Service	Excellent Service	Excellent Service
Agriculture	Excellent Service	Average Service	Average Service
Groundwater	Excellent Service	Average Service	Good Service
*ISDS	Service Needs Improvement	Service Needs Improvement	Service Needs Improvement
OTCA	Average Service	Average Service	Average Service
RIPDES	Excellent Service	Average Service	Excellent Service
*Waste	Good Service	Good Service	Excellent Service
Wastewater Treatment Facility Operators	Excellent Service	Service Needs Improvement	Fair Service
Wetlands	Service Needs Improvement	Service Needs Improvement	Service Needs Improvement

\* Indicates the sample size allowed a statistical interpretation of the data.

Based on the results of the survey, the following recommendations are made:

- Permitting Customer Satisfaction Surveys should be performed on a yearly basis to track DEM's performance in this area. The survey should be designed to evaluate specific permitting programs within an office.
- Administrative staff support should be available to ensure follow up work is done to allow a valid statistical sample to be collected.
- The ISDS and Wetlands programs should evaluate the regulations being implemented for possible improvements in customer service.
- Both programs should develop customer service improvement plans.
- The ISDS program should make changes to the existing manner soil evaluations and installations inspections are conducted to simplify the process.
- The ISDS program should improve application quality through incentives, public education and progressive enforcement actions of designers who submit poor quality applications.

## **B. Ombudsman Website Development**

The Ombudsman website on the DEM homepage tracks many of my activities. I am responsible for developing the website content. Information concerning the Ombudsman policy, the status of the Program Permit Streamlining activities and news about future meetings of the Environmental and Business Roundtables are regularly posted. Meeting notes, working group reports and meeting notices and agendas for Task Force activities are located on the website to keep the Task Force members and the public informed on these streamlining activities. The Business and Environmental Roundtables agendas, meeting notes and handouts, whenever possible, are also posted on the website.

E-government is available through the RI.gov website. DEM currently allows commercial marine licenses and boat registrations to be process on-line. DEM also allows the public to track the process of their ISDS permit applications. In order to expand this customer service, the Ombudsman conducted a survey of ISDS professionals to determine if DEM could provide additional services through the web. RI.gov is reviewing the results of the survey to determine if the current level of web services can be increased.

Information on the Ombudsman's activities can be found at the following location:

<http://www.state.ri.us/dem/programs/ombuds/index.htm>

## **C. Complaint Tracking Reports**

The ombudsman receives calls from the public concerning a range of environmental problems. Many of the calls are general questions from the public but do not know whom to contact in the agency for responses. These kinds of questions are either responded to immediately or are transferred to the appropriate program. In addition to these calls, I handled thirty-three cases that needed further attention. Only four of the cases remain open. To date, none of the cases required a formal written finding from the Ombudsman.

<b>Ombudsman Complaint Summary</b>	
<b>Program Issues</b>	<b>Number of Concerns Raised</b>
ISDS Permitting	8.5
Wetlands Permitting	5.5
Parks and Recreation	3
OWM Site Remediation	2.5
Compliance & Inspection	2.5
Air Permitting	1.5
Agriculture – Animal Issues	1.5
Miscellaneous	2
Underground Storage Tanks	1
Office of Legal Services	1
Underground Injection Controls	1
Well drilling Program	1
Stormwater Permitting	1
Groundwater	1
<b>Total</b>	<b>33</b>

The majority of the concerns raised dealt with permit issuance / review time problems, especially in the ISDS and Wetlands program. These two programs account for the vast majority of all permits issued by DEM to the public.

#### **D. Public Policies, Permits and Grant Application Accessibility**

DEM's mission is to:

- Enhance the quality of life for current and future generations by protecting, restoring and managing the natural resources of the state; enhancing outdoor recreational opportunities; protecting public health; and preventing environmental degradation.
- Achieve a sustainable balance between economic activity and natural resource protection.
- Motivate citizens of the state to take responsibility for environmental protection and management, based on an understanding of their environment, their dependence on it, and the ways their actions affect it.

In order to achieve this mission the public and the regulated community needs to understand the rules and policies that DEM uses to achieve its mission. An open and transparent government will allow the public to understand and support our environmental goals.

One mechanism that is being used to make the operation of the agency more transparent is to post information concerning policies, permits and grant applications on the DEM Website. I have collected approximately one hundred policies that have not been posted on the web. These policies will be reviewed for clarity and posted on the web.

## **E. Increasing Public Access to the DEM Website**

The DEM website is not accessible to citizens who do not understand English. In order to increase accessibility, the Ombudsman is investigating translating a portion of the DEM web content into other languages.

There is overlap in the services of Department of Human Services, the Department of Health and DEM. For example, DEM monitors the use of state parks, enforces fishing regulations and assesses water quality levels of water bodies. DOH tests water quality at beaches and provides information on nutrition and other health-related issues, some of which are environmentally related like mercury in fish, lead in flaking paint, etc. DHS is often the first governmental agency that has contact with a person with limited English speaking skills. The coordination of information would be beneficial to the public. This coordination can also help to protect the environment, improve public health and provide better delivery of service to the public.

In order to assess the needs of the non-English speaking community, the three agencies are considering conducting a focus group with representatives of citizens who are not fluent in English. This group would assist in identifying the material that should be translated that would serve the needs of the community. After the completion of the focus groups DEM will start the process of translating web content into other languages.