

**Air Pre-construction Permit Streamlining Task Force Meeting Notes
December 18, 2001**

Attendees:

Michael North, Doug McVay, Ronald Schroeder, Richard Austin, Terry Gray, Jim Saletnick, Glenn Almquist and Tom Getz

Tom Getz began the meeting by mentioning that the Director will not be able to attend the meeting and requested that we move forward today without him.

2. Future Meeting Topics

Tom briefly reviewed the results of the last meeting and said the issues of concerns were grouped into nine categories. These categories will for the basis of topics that will be discussed at future meetings. The meeting schedule for the Task Force and the topics that will be discussed at each meeting was suggested to be the following:

December: - Backlog Discussion

January - Process / Efficiencies

February - Regulatory Issues and Policy Issues

March - Outreach / Web tools, Administrative Issues and Personnel Issues

May – Wrap-up- Final Report

3. General Process Description

Doug briefly went over the existing process used to process applications. The pre-construction permit process has basically five steps, i.e.:

- Applications are received and logged into and placed onto a tracking sheet
- Applications are then assigned to an engineer for review
- Permit review with draft permit submitted to supervisor
- Permit review with draft permit submitted to Chief
- Final permit issued

The applications are generally processed in the order they are received (first come /first serve). Two exceptions to this are applications that a have a Certificate of Critical Economic Concern issued by EDC and applications that are deemed priority applications by the Department. Since 1997, there have been nine CEC projects, with only one being submitted in the last two years. These projects are put at the top of the list when they are received and assigned to the next available staff engineer.

We will discuss this issue in greater detail in the January meeting.

4. Backlog Discussion

Doug then proceeded to discuss the application backlog issue. There is a significant period of time when no work is done on the application. Unlike other DEM regulatory programs, the office does not have a major problem with application quality. Once the review begins on an application, there is a lot of information transfer occurring through phone calls. The review time of an application once the review begins, is not usually a problem.

The backlog is a result, mainly of the time an application spends in a queue and the time needed to actually review the application. The queue time is the time between when an application is received and when the application is assigned to an engineer to begin the review. According to division statistics, the queue time for 2000 was:

<u>Applications received</u>	<u>Average Queue time</u>
1/00- 3/00	84 days
4/00- 6/00	150 days
7/00- 9/00	190 days
10/00-12/00	165 days
1/01 –3/31	171 days

As can be seen from above, the queue time is the issue. Some of the reasons for the backlog or long queue time were an increase in the number of applications that were submitted for review. In 1998 and 1999, the office received 19 and 20 applications respectively. In 2000 and 2001, the numbers of applications submitted increased to 43 and 35.

Doug noted that with a 30-60 days review time, one staff person can process 6-12 applications per year. When fully staffed this translates in the Office being able to process 18-36 applications per year or on average 27 applications per year. As mentioned above, the number of applications that were submitted in the last two years exceed staff capabilities.

Being able to process 27 applications per year is predicated on a staff of three. Doug mentioned there was a vacant position from 5/00 to 5/01, which reduced staff to two, and for two months in that time (1/01 - 2/01) the staff was down to one.

Doug mentioned that typical review time is in the 30 to 60 day time-period. The average for last 30 projects was 45 days. Task Force members thought this time seemed to be longer than what they experience in other states. Doug mentioned that staff has other permit-related duties including review of applications. These duties include processing the following:

- ◆ Requests for modifications to existing permits
- ◆ Requests for a determination as to whether a permit is needed for a particular activity
- ◆ Air pollution control equipment registrations
- ◆ Notifications of planned changes to a facility

Task Force members raised the following questions or comments:

- 1. Can resources be shifted from the Title V program to the pre-construction permitting program (or vice-versa) when there is a permit backlog?**

DEM Response

This could be a problem for a number of reasons. The Title V permit program is funded through fees from major sources. It is not possible to shift significant funding from one account to another. In addition, engineers staff the pre-construction permit program. Their reviews are technical in nature. The Title V program does not require an intensive engineering evaluation of the source and DEM has staffed this section with environmental scientists. In addition, DEM has not been able to retain engineers in this program due to a higher salary structure in the private sector and in the past, has had a difficult time to retain engineers in this program.

- 2. Other states in the region issue permits faster and will be more flexible when there is a critical need to process an application. One reason they may be faster in their reviews is that one person is responsible for all permits from a facility (pre-construction and operating) and they are more familiar with the operations of the facility.**

DEM Response

As mentioned above, the speed of our existing reviews is tied to the number of permits that we receive in a year. In the last two years DEM received more permits than we had the ability to process. Unless we change the review process or get additional resources, we will experience occasional backlogs. Doug also mentioned that there is a difference between how big states and small states are able to run a permitting program. Bigger states have more flexibility to shift resources around in a program where there is a need to process a critical application. In a smaller state, where resources are stretched thin to begin with, the flexibility to work on high profile permits delays other permits.

- 3. Can DEM consider a shield for sources that need to move forward with a project? Should we allow these sources to move forward at their own risk since DEM usually approves permits?**

DEM Response

It is true that DEM usually approves most permits, but the program may require additional control requirements than are initially submitted by the applicant. The state requires the use of Best Available Control technology for many permits. This could cause a problem if a source needed to modify their process if DEM required additional control.

4. **Other states set maximum times for determining if an application is complete and Massachusetts refunds the permit fee if permits are not processed within a certain time period. Could DEM adopt these procedures?**

DEM Response

As mentioned above, DEM's ability to process applications is limited to the number of employees in the program, their permit related duties and the number of applications received. Setting time limits to process applications could be detrimental to proper review of the application. DEM will look at utilizing general permits to reduce review of permits and through the task force will look at ways to streamline the process.

5. Discussion - Timing / Expectation for Permit Decisions

The group had a general discussion on what an acceptable time period would be for a DEM permit decision. It was generally agreed that a 60-90 day time frame was an acceptable time frame for most permit decisions. This time frame would be competitive with both Connecticut and Massachusetts. It is critical that this time period needs to be met throughout the year because people need to be able to predict when a decision will be made. The group understood that major permits would take longer to process, but the smaller less complex applications should be able to be processed in this time frame.

It was mentioned that long queue times could potentially have an impact with sources siting a facility in this state.

6. Discussion -Use of Consultants

Three proposals were discussed at the meeting.

Option 1

Have facilities agree to emission limits that went beyond compliance. DEM would agree to process these applications first and the review would be expedited. DEM would provide an expedited review for lower emissions that would be generated by the facility.

Option 2

Require facilities develop a draft permit. These applications would be assigned to staff immediately after they were received and would go to the top of the pile of applications. Part of DEM's work would be shifted to the regulated community and DEM's need for extensive review would be reduced.

Option 3

Maintain the status quo, applications would be provided to DEM that would allow most people to submit an application. DEM would then provide extensive review and in essence complete the application that was submitted using the minimal information that was provided.

After extensive discussion the group thought Option 2 was a workable way to streamline the permit process. Option 1 was not looked on favorably because most Task Force members present thought this would require the implementation of Lowest Achievable Emission Rates (LAER).

Best Available Control Technology is now required and people did not think many facilities would want to commit to LAER. Members thought Option 2 was a fair process; it allowed facilities that needed priority treatment to get serviced faster, even though it would require the submission of additional information. If an application was not time-sensitive the status quo might be an acceptable option, if the review time was reasonable, i.e., within 60-90 days.

8. General Permits

General permits are one way to streamline the permit approval process. DEM would issue a general permit that detailed the regulatory requirements for a particular source category. If the facility could meet these general requirements, a permit would be issued with minimal DEM review time. Doug reviewed the types of sources permitted in the FY 1997 to FY 2001 time period. Office of Air Resources permitted 115 projects. The breakdown of these projects is as follows.

- Air pollution control equipment - 36
- Boiler - 20
- Emergency generator - 16
- Chrome plating line - 5
- Diesel-fired engine - 4
- Degreaser - 3
- Ethylene oxide sterilizer - 3
- Surface coating operation - 3
- Crematory - 2
- Asphalt plant - 2
- Site cleanup -2
- Miscellaneous – 19

Some potential general permit categories would be small degreasers, drycleaners, emergency generators, temporary emission sources and future regulatory source categories that have many facilities and use technology requirements to determine compliance. Dry cleaners however can be added to this list based on future DEM activities. Model regulations or general permits, with the exceptions noted, are not useful since the emission limitations are generally case by case determinations. In addition, the low volume of application in a category does not make the general permit efficient.

The meeting was adjourned and the Task Force will meet on January 15th, in Room 450, Conference Room A in 235 Promenade Street from 3:00 – 4:30.