MassDEP Air Permit Streamlining

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Why Look at Air Permits?

- Improve efficiency & effectiveness of environmental regulation:
  - Make the air permitting process more transparent
  - Identify areas where case-by-case BACT is not necessary or appropriate
  - Identify opportunities to reduce permit timelines
  - Identify opportunities to promote energy efficiency and renewable energy.

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Baseline Study

- Examined every application & approval from July 1, 2004 thru Dec. 31, 2006 and conducted 8 case studies to:
  - Identify purpose & nature of application, detail of BACT analysis and timeline to approval
  - Identify costs of air permitting
  - Identify areas of contention and process bottlenecks
  - Identify potential improvements.

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Baseline Study

- 373 applications examined- 54% Limited Plan Approvals (LPA), 46% Non-Major Comprehensive Plan Approvals (NMCPA)
  - 6% were for administrative amendments to existing permits
  - 11% were for nuisance control
  - 27% were in response to enforcement
  - 35% were to expand capacity including 13 new facilities.
  - 20% were for energy or production flexibility.

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Findings

- 74% drop in the number of applications submitted annually since 1988 due to:
  - Performance standards
  - Higher applicability thresholds
  - ERP Program
- 18% of current applications are related to power generation facilities
- Current applications are very diverse – opportunity for additional performance standards is limited.

Findings

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- No fundamental flaw in the program
- Lack of transparency

Findings

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- 79% of all applications were approved within 90 days for an LPA, or 120 days for a NMCPA (i.e. significantly less than permit timelines allow).
- Factors that affect approval speed include:
  - Enforcement
  - Incomplete applications
  - Air quality and noise modeling
  - Complex regulatory, engineering, technology, siting or interagency/ intergovernment issues.

Findings

- Documentation of Best Available Control Technology (BACT):
  - 17% of applications contained a top-down BACT analysis with technical and economic analysis.
  - 15% of applications proposed the highest level of control as BACT. No economic analysis.
  - 52% of applications proposed a cap on emissions where MassDEP concurred (pre-application) that add-on control would not be cost effective.

Recommendations

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- Amend regulations to create distinct application pathways for:
  - Administrative amendments
  - Nuisance conditions- level of control required to abate nuisance
  - BACT Analysis Options
    - Top-Down analysis, or
    - Highest Level of Control, or
    - Cap Emissions.

Recommendations

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- Create an on-line MassDEP BACT Registry
- Create an Air Plan Approval Guide and BACT Analysis Guide (updating existing EPA and NESCAUM guidance to reflect current practice)
- Revise/ simplify plan application forms
- Create a standard plan approval letter (format, terms, conditions and recordkeeping/reporting requirements)
- Identify, document and train staff on “best practices” in plan review.

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Recommendations

- As part of amending regulations and developing guidance:
  - Evaluate and propose changes to applicability thresholds
  - Identify opportunities and mechanisms to promote energy efficiency and renewable energy
  - Identify mechanisms to simplify plan approval for R&D facilities.

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Recommendations

- Establish Air Permitting Forum
  - Consultants, attorneys, applicants, others
  - Input to the development of new guidance, forms and regulations
  - Ongoing feedback on air permitting (quarterly, semi-annual)
  - Opportunity to communicate and resolve issues, interpret requirements and identify “Best Practices” for applicants.

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Air Permitting Forum

- For more information or to get involved contact:

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Schedule

- Sept. – Dec. 2007
  - Draft amendments to regulations
  - 1st Meeting Air Permit Forum
  - Draft Air Permit Guide
  - Draft BACT guidance
  - Compile BACT determinations for the BACT Registry
- Jan. – Apr. 2008
  - Public hearings on regulations
  - Revise plan application forms
  - Develop standard approval letter
  - Put BACT Registry on-line
  - Finalize Air Permit and BACT Guide.