

	AIR QUALITY DIVISION POLICY AND PROCEDURE	DEPARTMENT OF ENVIRONMENTAL QUALITY
Original Effective Date: August 26, 2004	Subject: Issue Resolution Process for Permit to Install Applications	Category: <input type="checkbox"/> Internal/Administrative <input checked="" type="checkbox"/> External/Non-Interpretive <input type="checkbox"/> External/Interpretive
Revised Date: Reformatted Date: January 29, 2014	Program Name: Air Permits to Install	
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A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law.

INTRODUCTION:

During the review of a Permit to Install (PTI) application, instances occur where there is a disagreement between the applicant and the Air Quality Division (AQD) staff. These disagreements can involve policy issues, technical issues, and/or additional information requests. The Issue Resolution Process was developed to provide an applicant a mechanism to quickly elevate outstanding issues for resolution to a higher decision-making level within the AQD if there is still an impasse following the built-in process steps, either in the Permit Scoping Meeting (PSM) or one of the formal progress check meetings. These process steps usually involve the permit engineer, the applicant, and both of their supervisors. Therefore, invoking this Issue Resolution Process should not occur unless, and until, the issues are not resolved following the PSM or formal process check meetings.

The use of the Issue Resolution Process does not reflect negatively on any of the parties involved, but rather recognizes that a professional difference of opinion still exists that is unlikely to be resolved by continued discussions at the applicant, permit engineer and supervisor level. Such differences are to be expected when dealing with confusing regulations and complex technical and regulatory issues. The Issue Resolution Process ensures that the applicant and the AQD understand each other's position and basis. It is not a win/lose proposition, but rather is a means to reach an informed decision on a particular issue.

The Issue Resolution Process was originally outlined in Operational Memorandum (Op Memo) No. 19 on August 26, 2004. It outlined the process for resolving specific issues related to current permit applications under review. However, that Op Memo will be replaced with this Policy and Procedure document and will continue to serve as guidance for both AQD staff and the regulated community with respect to resolving outstanding issues during the PTI application review process.

Issues that are generic in nature, such as a request for spreadsheets to aid in application review, submittal of electronic data in lieu of hard copy data, etc., are not within the purview of the Issue Resolution Process and must be handled separately.

AUTHORITY:

The levels at which decisions are made in the AQD are consistent with delegations of authority from the Director of the Department of Environmental Quality, as contained in Delegation Letter No. AQD-55-02, as revised on August 18, 2010.

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DEFINITIONS:

Information Requests: This issue relates to the type, quantity, or detail of the information requested by the permit engineer in order to complete the evaluation of the application.

Look-See: These formal progress checks are specific points in the review process where the permit engineer, the applicant, and their supervisors meet to evaluate the review process and discuss and resolve outstanding issues.

Permit Scoping Meeting (PSM): The PSM is an initial meeting that is held before the PTI application is submitted. The meeting is generally held between the applicant and AQD staff to 1) discuss the applicable requirements, information needs, questions of the applicant, and 2) provide the applicant with possible conditions and a schedule for processing the application. PSMs are not mandatory, but instead are an opportunity for clear communication and issue discussion before applications are completed and submitted.

Policy Issue: This issue relates to how overall requirements or policies are interpreted and applied to the application under review. Examples include rule or guidance interpretation, process or procedural issues, and other overarching issues.

Technical Issue: This issue relates to the technical interpretation or decision related to a rule, regulation or evaluation. Examples include Best Available Control Technology (BACT) decisions, applicable requirements, and offset provisions.

POLICY:

The AQD will make available the Issue Resolution Process to all PTI applicants to ensure the timely resolution of specific application-related policy issues, technical issues, and/or additional information requests. The Issue Resolution Process should only be invoked when it is clear that an impasse has been reached on a particular issue following reasonable attempts to resolve a difference of opinion through discussion between both parties and their supervisors. It is important to note that the permit review process continues in all areas that are not impacted by the particular issue. The Issue Resolution Process identifies the decision-making steps within the AQD. It is recommended that a similar process be followed within the applicant's organization.

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PROCEDURES:

The Issue Resolution Process may be used for policy issues, technical issues, and/or additional information requests, and invoked following efforts to resolve issues as part of the normal permit review process.

For Information Requests:

These issues may arise after the PSM, if held, or after the technical completeness check by the permit engineer. If the applicant does not agree with the information request made by the permit engineer, the following steps should be pursued:

Who	Does What
Applicant	If applicant disagrees with information request made by permit engineer, the Issue Resolution Process may be invoked by the applicant within 5 days of the PSM, or 10 days of the technical completeness check.
Applicant	The applicant submits a detailed written request to the appropriate unit supervisor.
Unit Supervisor	The unit supervisor will review the request submitted by the applicant. Within 3 days of receipt of written request, the unit supervisor will either grant the request in whole or in part, or deny the request. <ul style="list-style-type: none">• If the request is granted in part or denied, the requested information must be submitted to the AQD within the prescribed time frames of the permit process.

For Technical Issues:

Technical issues may arise after the PSM, if held, or after the technical completeness check by the permit engineer. In many cases, the technical issues arise during the permit engineer's technical evaluation of the application. The preferred time for technical issues to be raised and resolved is during or following the PSM. If the applicant still feels a technical issue remains, it should be resolved during Look-See #1 with the permit engineer, applicant and their respective supervisors. If the issue remains, the following steps should be pursued:

Who	Does What
Applicant	If technical issues remain after Look-See #1, the Issue Resolution Process should immediately be invoked.
Applicant	Applicant submits a detailed written request to the permit section supervisor within 3 days outlining the specific arguments opposing the unit supervisor's decision.
Permit Section Supervisor	A final decision on the technical issue within 3 days of receipt of the written request will be made. NOTE: The technical decision of the permit section supervisor <u>cannot</u> be appealed under the Issue Resolution Process. However, it can be made part of the public comment period, should one be held, and become part of the final decision-making process.

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For Policy Issues:

Policy is continually developed, challenged, and reconstructed over the course of many years. Even though policy issues arise from time to time during the permitting process, the AQD does not anticipate a great number of policy issue determinations being made during the permitting process. The AQD recommends that if an applicant or an industry anticipates a policy issue conflict, the issue be raised outside of the application process.

Policy issues may arise any time during the permit process. The preferred time for policy issues to be raised and resolved is during or following the PSM, if held. However, if the applicant believes a policy issue has not been resolved by the unit supervisor, then the applicant may seek the decision of the permit section supervisor. At that point, the following steps should be pursued:

Who	Does What
Applicant	The applicant submits a detailed written request to the permit section supervisor within 3 days of the unit supervisor's decision. The request should outline the specific arguments opposing the unit supervisor's decision.
Permit Section Supervisor	The permit section supervisor will make a decision on the policy issue within 3 days of receipt of the applicant's written request.
Applicant	If the applicant disagrees with the permit section supervisor's decision, they may appeal that decision to the Division Chief. The applicant submits a detailed written request to the Division Chief within 3 days outlining the specific arguments opposing the permit section supervisor's decision.
Division Chief	The Division Chief will make a final decision on the policy issue within 3 days of receipt of the request. NOTE: The decision of the Division Chief <u>cannot</u> be appealed under the Issue Resolution Process. However, it can be made part of the public comment period, should one be held, and become part of the final decision-making process.

DIVISION CHIEF APPROVAL:


G. Vinson Hellwig, Chief
Air Quality Division