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## MassDEP's 2007 Permit Efficiency Initiatives

**Governor Patrick Announces Permit Efficiency Initiatives:** On March 1, 2007, Governor Deval L. Patrick announced new initiatives that will improve the efficiency and effectiveness of environmental regulation in Massachusetts. The measures are designed to speed the regulatory decisions that are critical for development projects, and also allow MassDEP to concentrate its resources on the most pressing environmental concerns. These measures include:

- Proposed regulations to reduce by 20% the time period for MassDEP permitting decisions;
- Issuing 90% of all permit decisions in 180 days or less; and
- Development of a proposal to reduce delays in the wetlands appeals process.

The Massachusetts Department of Environmental Protection is committed to focusing on protecting the environment. To achieve the goal of speeding regulatory decisions while ensuring that strict environmental standards are upheld, MassDEP has launched the following initiatives:

- **Reduction of Permit Timelines:** In February 2007, MassDEP proposed regulations that will reduce timelines for the majority of its permit categories by 20%. MassDEP has also committed to issuing 90% of all permit decisions in 180 days or less. These proposed regulations will be available for public review and comment in March and April 2007.
- **Specific Permit Categories Targeted for Streamlining Opportunities:** MassDEP has targeted three permit categories for detailed analysis to identify ways to shorten the decision time. These permit categories were selected for in-depth review because they are generally associated with significant economic development opportunities, have a history of customer concerns about decision delays, are relatively high-volume, and more than 20% of the permit decisions exceed the 180 day goal. The three permit categories are:
  - **Air Quality Permits** - Air quality permits, particularly those referred to as "non-major" comprehensive plan approvals, which are commonly required for new or expanded business activities. These permits also require a resource intensive "Best Available Control Technology" (BACT) analysis. The initial focus will be on energy-related projects followed by a more inclusive review of other business activities.
  - **Chapter 91 Licenses for Land-Based Development Projects** - Permits for non-water dependent developments in filled or flowed tidelands (Chapter 91 Licenses).

- **Permits for Groundwater Discharge of Wastewater** - Permits for groundwater discharge of wastewater for major new and/or expanded development projects.
  
- **Streamlining of the Adjudicatory Appeals Process:** MassDEP is proposing to further streamline its adjudicatory appeals process, building on its efforts in 2005 & 2007 to institute an effective appeals prescreening program. This next phase is a two-part strategy that will streamline processing of cases currently in the system and create a revised intake for new appeals. As part of this effort, MassDEP has re-convened its Appeals Advisory Stakeholder Group to seek input on potential streamlining for appeals of wetlands decisions, enforcement actions, and other permits. MassDEP Point of Contact for Appeals Process Streamlining: Margaret Stolfa, General Counsel, [Margaret.Stolfa@state.ma.us](mailto:Margaret.Stolfa@state.ma.us), 617/292-5922.

# Air Quality Permit Streamlining – 2007

## Issue

MassDEP has implemented a great deal of regulatory reform over the past several years that has substantially reduced individual air quality permit application reviews. Despite this effort, industry representatives and their consultants continue to identify air permits as one of the more time- and resource-consuming aspects of the overall state-level approval process for new and/or expanding economic development activities. Their concerns focus on the overall timeline to process individual permits and, for large projects, the costs in analyzing and then implementing the regulatory requirement that air pollution sources be controlled with the Best Available Control Technology ("BACT"). The BACT process has the environmental benefit of forcing the adoption of the most advanced pollution control technology available at the time the application is reviewed, but can also result in significant costs to install new or expand/replace existing equipment or industrial processes. As a result, the BACT review aspect of an air permit application can be a resource intensive and contentious process. The strategy being developed by MassDEP is designed to analyze the BACT benefit-cost tradeoffs in order to identify additional opportunities for regulatory or policy streamlining, as well as reform the overall permitting process to expedite permit decision making.

## Strategy

Utilizing the advice and input from an external advisory group, MassDEP will review all limited and non-major comprehensive plan applications that were approved, denied or withdrawn over the last two years in order to determine the factors influencing the time to decision. MassDEP will also consider the types of projects for which performance standards (potentially using an Environmental Results Program [ERP] approach) could replace individual approvals. In addition, MassDEP will look at the additional transaction, capital and operational costs, as well as the environmental benefits associated with the "non-major comprehensive plan approval" BACT determinations. These reviews will allow MassDEP to identify: benefits of and potential alternatives to BACT for certain types of projects, and ways to streamline permit and BACT review processes.

## Schedule

- March 2007: Kick-off with External Stakeholder Group
- March - June 2007: MassDEP Perform Analyses & Develop Recommendations
- July 2007: Review Recommendations with External Stakeholder Group
- Labor Day 2007: Final Recommendations and Plan
- Fall 2007: Begin Implementation

## MassDEP Point of Contact

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## **Chapter 91 License Streamlining - 2007**

### **Issue**

Chapter 91 licensing is an integral part of economic development projects located in Commonwealth filled and flowed tidelands. The Chapter 91 program has also been identified as part of MassDEP's permit streamlining efforts as an area that could benefit from a thorough review to identify ways, from both a process and regulatory standpoint, to reduce the timelines associated with licensing decisions while still protecting and ensuring public access to waterfront resources.

### **Strategy**

MassDEP will work with key agencies, including the Massachusetts Executive Office of Energy & Environmental Affairs (EOEEA) and Coastal Zone Management, as well as a group of external stakeholders to consider regulatory and policy improvements in the Chapter 91 licensing process. Specific licensing elements to be considered will include, but may not be limited to, improving the role and timing of agency participation in license proceedings and the MEPA process, potential for improved permitting pathways including establishment of standards (e.g. minimum standards for applications submitted and standards for extended license terms), and other agency process and resource improvements. Any proposed changes to regulations will also undergo the normal public review and comment process for draft regulations.

### **Schedule**

- March 2007: Intensive Analyses and Recommendations Development, including Input from External Stakeholder Group
- April & May 2007: Draft Regulations Out for Public Review
- June 2007: Final Regulations
- Summer 2007: Begin Implementation

### **MassDEP Point of Contact**

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# Groundwater Discharge Permit Streamlining – 2007

## Issue

Individual permits for the discharge of non-industrial wastewater into the ground are often utilized for a broad range of business activities, and also for housing and commercial development projects. The engineering and environmental challenges associated with the discharge and/or reuse of treated wastewater to the ground can be complex. MassDEP believes that there are opportunities for permit process improvements and simplification that will ensure protection of public health and the environment while being responsive to the Governor's mandate that permitting decisions be made within 180 days. MassDEP also believes that the safe re-use and recharge of wastewater to the ground should be promoted to help "keep water local" (link) in order to address low streamflow issues and to help ensure adequate water resources for future generations.

## Strategy

Requirements for the groundwater discharge permitting process should be risk-based and performance-based. More complicated projects posing higher environmental risks should be required to provide all the information needed to evaluate environmental and public health impacts and ensure proper permit conditions and oversight. However, lower-risk and less-complex projects with clear benefits should undergo a simpler process commensurate with the scope and location of the project. MassDEP will work with an external stakeholder group to identify opportunities for regulatory and policy improvements to various aspects of groundwater permitting (including potential performance standards, risk-based categorization of applications, and administrative processes).

## Schedule

- March 2007: Kick-off with External Stakeholder Group
- March - April 2007: MassDEP Perform Analyses
- April - May 2007: Work with External Stakeholder Group to Develop Recommendations
- June -- July 2007: Conduct Public Meetings and Focus Groups for Additional Input
- July 2007: MassDEP Implement Internal Process Changes
- August 2007: Work with External Stakeholder Group Address Public Input and Modify Recommendations Accordingly
- Labor Day 2007: Final Recommendations and Plan
- Fall 2007: Begin Implementation, including Draft Regulations for Public Comment

## MassDEP Point of Contact

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