

**TCEQ Agenda**  
**August 22, 2018**  
**Work Session Action Items**

**Current case-by-case New Source Review (NSR) permit timeframes:**

- The attached timeframe document identifies minimum timeframes that are a required part of the technical review for case-by-case NSR authorizations.
  - “Air Permits Division Case-by-Case New Source Review Minimum Permit Timeframes”
- The attached flowcharts specify the estimated duration of the minor and major case-by-case NSR permit authorization process:
  - “Air Quality Minor New Source Review Primary Components of the Public Participation Process and Related Estimated Time Frames” (August 31, 2016)
  - “Air Quality Major New Source Review Primary Components of the Public Participation Process and Related Estimated Time Frames” (August 31, 2016)

**Estimated percentage of non-expedited versus expedited air permit projects received per fiscal year (data separated based on minor and major permit projects):**

- The attached table provides data from November 1, 2014 through April 30, 2018. This information was also previously shared with staff from the Governor’s Office and Lt. Governor’s Office.
  - “Expedited versus Non-expedited Projects Received” (June 2018)

**Turnover/Workforce information:**

- Table 1 of this attachment provides the number of separations from APD, 2010 to present, and the years of experience of those separating.
- Table 2 outlines APD’s level of permit knowledge within the division by years of staff experience.
  - “TCEQ Air Permits Division Separation and Workforce Information” (June 2018)

**Deficiency timeframes for minor and major case-by-case NSR permits:**

- The two attached tables outline deficiency timeframes for expedited (Table 1) and non-expedited (Table 2) case-by-case NSR permits. Each table lists timeframes for minor and major NSR permits.
  - “TCEQ Air Permits Division Deficiency Timeframes” (June 2018)

**Other State Expedite Programs:**

- The attached contains two tables “State Agency Expedite Programs” and “State Agency Streamlining Programs” which provide a summary of information APD staff were able to gather about 14 other states.

**Air Permits Division**  
**Case-by-Case New Source Review**  
**Minimum Permit Timeframes**

The attached flowcharts for Air Quality Minor (and Major) New Source Review (NSR) Primary Components of the Public Participation Process and Related Estimated Time Frames both reflect the components of the case by case permitting process and the estimated number of days to complete each step. The estimated number of days will vary depending on the specific details and facts of each individual permit review. There are also periods of time that are required in every case by case review that result in a minimum number of days to complete a permit. Some of these days result from the simple necessity of processing and preparing required documents while others are statutorily required. APD staff do try to overlap other components of the review process to increase efficiency, when possible, during these steps of the process. The minimum processing times and references to any applicable statutes are listed below:

Minimum 100 day Statutory Required Timeline within 285-365 day Permit Review Process:

- Application received [Tex. Health and Safety Code (THSC) §382.0518(a)]
- Application deemed administratively complete and Notice of Receipt of Application and Intent to Obtain Permit (NORI - 1<sup>st</sup> public notice) published by applicant [Tex. Water Code (TWC) §5.552 (a) and (b)] - rule requires 30 day comment period
- Technical review overlaps NORI comment period and continues until preliminary decision is made on draft permit [TWC §5.553(a)]
- SB709 Notification sent to Legislators. [TWC §5.5553(b)] - 30 day requirement
- Notice of Receipt of Application and Preliminary Decision (NAPD - 2<sup>nd</sup> public notice) published by applicant [TWC §5.553(b)] - rule requires 30 day comment period
- Close of 2<sup>nd</sup> comment period (no comments, meeting and/or hearing requests received) - Issue permit [TWC §5.122(a)]

# Air Quality Minor New Source Review (NSR) Primary Components of the Public Participation Process and Related Estimated Time Frames

August 31, 2016

Estimated Duration

30-60 Days

Notice includes sign posting and possible alternative language publication

60-200 Days

Early (30 days prior) notice of draft permit issuance is sent to area legislators (required by SB 709)

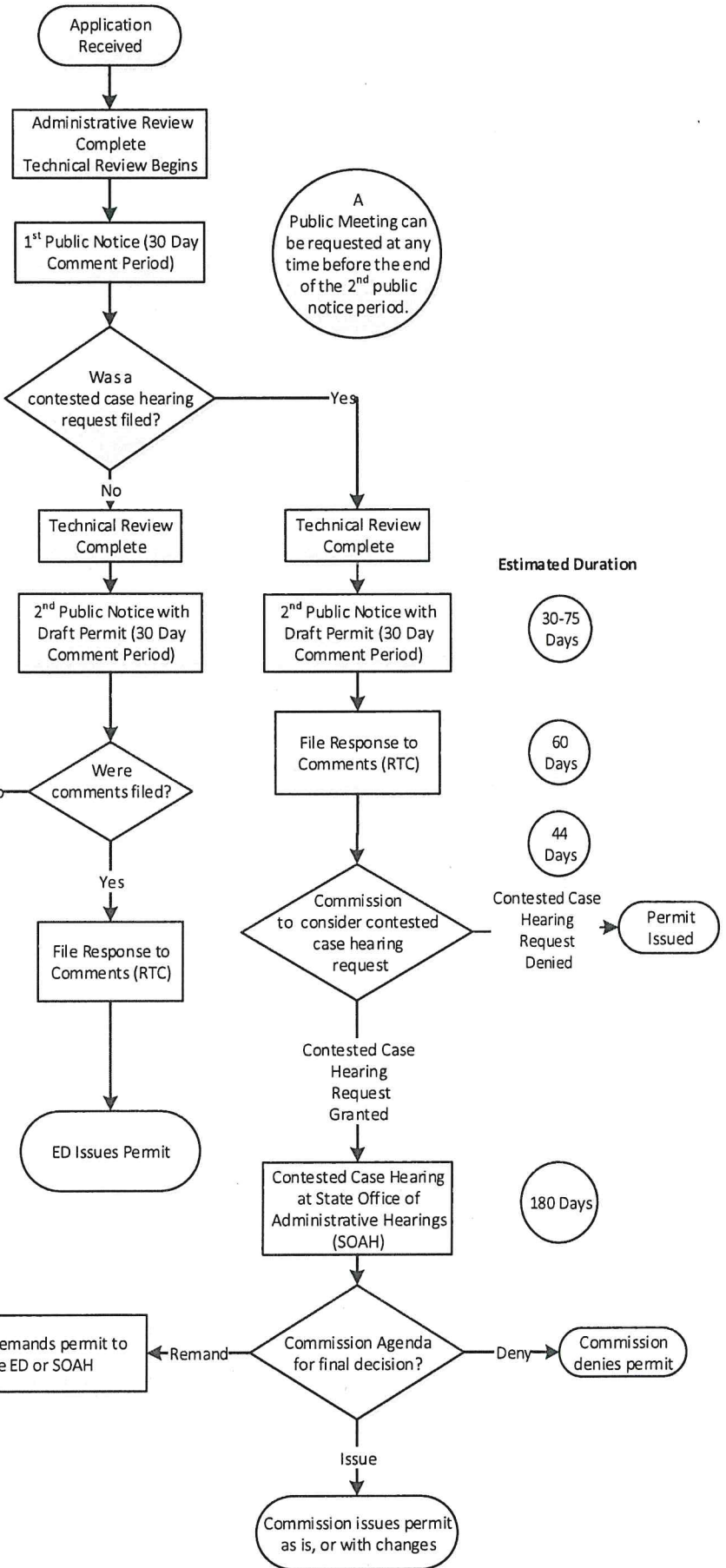
30-75 Days

Goal to issue permit 285-315 Days

60 Days

Executive Director (ED) Issues Permit

Goal to issue permit 285-315 Days



A Public Meeting can be requested at any time before the end of the 2<sup>nd</sup> public notice period.

Estimated Duration

30-75 Days

60 Days

44 Days

Contested Case Hearing Request Denied

Permit Issued

Contested Case Hearing Request Granted

180 Days

Commission remands permit to either the ED or SOAH

Commission denies permit

Commission issues permit as is, or with changes

# Air Quality Major New Source Review (NSR) Primary Components of the Public Participation Process and Related Estimated Time Frames

August 31, 2016

Estimated Duration

30-60 Days

60-200 Days

30-75 Days

Goal to Issue Permit 365 Days

Early (30 days prior) notice of draft permit issuance is sent to area legislators (required by SB 709)\*

Executive Director (ED) Issues Permit

60 Days

Goal to Issue Permit 365 Days

Application Received

Administrative Review Complete  
Technical Review Begins

1<sup>st</sup> Public Notice (30 Day Comment Period)

Notice includes sign posting and possible alternative language publication

Technical Review Complete

2<sup>nd</sup> Public Notice with Draft Permit (30 Day Comment Period)

A Public Meeting can be requested at any time before the end of 2<sup>nd</sup> public notice period.

\* Were comments or a contested case hearing request filed?

\* Was a contested case hearing request filed?

File Response to Comments (RTC)

Estimated Duration

60 Days

44 Days

Commission to consider contested case hearing request?

Contested Case Hearing Request Denied → Permit Issued

File Response to Comments (RTC)

ED Issues Permit

Contested Case Hearing at State Office of Administrative Hearings (SOAH)

180 Days

Commission Remands Permit to Either the ED or SOAH

Commission Agenda for final decision?

Commission Denies Permit

Commission Issues Permit as is, or with Changes

\*The EPA does not provide for a contested case hearing. The EPA has a process similar to the notice and comment hearing. GHG PSD permit applications are not subject to the contested case hearing requirements of Chapter 116 or the SB 709 notification requirements.

**Expedited versus Non-expedited Projects Received  
(June 2018)**

			FY 2015	FY 2016	FY 2017	FY 2018
Non-Expedited Received	NSR	Major	39	28	17	10
		Minor	10806	8102	7183	5621
	TV		631	792	580	446
<b>Total</b>			<b>11476</b>	<b>8922</b>	<b>7780</b>	<b>6077</b>
			FY 2015	FY 2016	FY 2017	FY 2018
Expedited Received	NSR	Major	41	26	25	30
		Minor	184	304	399	441
	TV		1	10	6	4
<b>Total</b>			<b>226</b>	<b>340</b>	<b>430</b>	<b>475</b>

	FY 2015	FY 2016	FY 2017	FY 2018
Total Projects Received	11702	9262	8210	6552
% of Expedited Received	2%	4%	5%	7%
% of Major NSR Received that were Expedited	51%	48%	60%	75%

## TCEQ Air Permits Division Separation and Workforce Information (June 2018)

Table 1 - APD Separations 2010 - Present

Year	0-3 years	4-6 years	7-10 years	11+ years
9/1/2010 - 8/31/2011	2	1	1	5
9/1/2011 - 8/31/2012	13	8	1	6
9/1/2012 - 8/31/2013	9	4	2	6
9/1/2013 - 8/31/2014	7	2	1	7
9/1/2014 - 8/31/2015	17	2	2	8
9/1/2015 - 8/31/2016	10	1	0	11
9/1/2016 - 8/31/2017	9	2	0	6
9/1/2017 - Present	5	0	0	3
<b>Total</b>	<b>72</b>	<b>20</b>	<b>7</b>	<b>52</b>

Table 2 - APD Workforce per Section and Level of Experience

APD Section	0-3 years	4-6 years	7-10 years	11-15 years	16-20 years	21+ years
Chemical NSR Permits	17	5	1	3	1	6
Energy NSR Permits	16	3	2	4	1	2
Mechanical/Coatings NSR Permits	10	2	1	5	3	3
Operating Permits	6	1	7	2	3	5
Operational Support	4	2	4	4	7	6
Permit Support	7	7	8	2	3	0
Rule Registrations	4	5	2	3	4	5
Division Director Staff	0	1	1	0	1	2
<b>Totals</b>	<b>64</b>	<b>26</b>	<b>26</b>	<b>23</b>	<b>23</b>	<b>29</b>

Assumptions and Notes:

- Data accounts for the staff moves from the Rule Registrations Section to the Energy and Chemical Sections
- 61% of the staff reviewing permits in the three NSR permit sections have 0-3 years of experience
- Vacancies are included in the data in the 0-3 year column

**TCEQ Air Permits Division Deficiency Timeframes  
(June 2018)**

**Table 1 - Expedited Air Permitting Program Deficiency Timeframes**

	FY 2015		FY 2016		FY 2017		FY 2018		
	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Average Modeling* Deficiency (Days)	Reviewer Processing Time (Days)
Major Case-by-Case NSR Permits	NA	NA	54	292	172	313	62	22	380
Minor Case-by-Case NSR Permits	20	87	45	196	61	203	60	24	170

**Table 2 - Non-Expedited Air Permits Deficiency Timeframes**

	FY 2015		FY 2016		FY 2017		FY 2018		
	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Reviewer Processing Time (Days)	Average Deficiency (Days)	Average Modeling* Deficiency (Days)	Reviewer Processing Time (Days)
Major Case-by-Case NSR Permits	75	486	47	422	107	NA	552	299	530
Minor Case-by-Case NSR Permits	59	194	80	212	89	14	236	89	259

\*APD started tracking modeling deficiency cycles late in calendar year 2017.

**State Agency Expedite Programs\***

<b>State</b>	<b>Agency Name</b>	<b>Expedited Program</b>
<b>Louisiana</b>	Louisiana Department of Environmental Quality	Louisiana does offer expedited permit processing. An applicant must complete a request form on line and then LDEQ will contact them. There is not much information on the web about the process. The expedited rules state: If requested, the application shall be submitted electronically. LDEQ can cease expediting if the applicant fails to provide the information. The fee is calculated based on maximum per hour overtime salary for who will perform the work. Applicants may request that the fee not exceed an amount.
<b>Massachusetts</b>	Massachusetts Department of Environmental Protection	Massachusetts offers a fast track permitting program for selective industries. MassDEP guarantees a timely decision on your environmental permit or your money back. To be authorized for Fast Track, project proposals are submitted to a Regional Director. The director will work with the Commissioner's Office of Operations and Programs to develop the necessary project agreement. Once an agreement is signed, the project applicant can begin working with the MassDEP project manager assigned to the project. The cost of fast tracking a project is determined by the number and complexity of the permits. Project proponents will work with the MassDEP project manager to draft a memorandum of agreement (MOA) outlining the deliverables and a fee schedule. Projects must meet one or more of the following criteria to be eligible for Fast Track: 1. Projects that are consistent with sustainable development principles and promote smart growth; 2. Projects determined by the Commissioner to be of significant environmental interest to the Commonwealth; and 3. Projects with multi-permit complexity.
<b>Minnesota</b>	Minnesota Pollution Control Agency	The MPCA offers an expedited permit process for certain types of projects. If you need a permit issued faster than the 150-day goal, contact MPCA.
<b>Nebraska</b>	Nebraska Department of Environmental Quality	Nebraska offers a FastTrack Permitting program which emphasizes improving the cooperation and communication between the NDEQ and applicants to streamline the permitting process through early meetings, early identification of issues, timely submittals and dialogue, and submittal of a complete application. The program is primarily intended for Prevention of Significant Deterioration (PSD) projects, ethanol plant construction or modification projects, and for any other project that may be complex in nature (new or specialty industries, PSD netting projects, major Greenfield projects, etc.). The applicant is encouraged to request a planning meeting with the NDEQ to be held at least six months prior to application submittal. The NDEQ and the applicant enter an agreement that focuses on the timely and quality review of an air quality construction permit application.



State	Agency Name	Expedited Program
<b>New Hampshire</b>	New Hampshire Department of Environmental Services	New Hampshire will provide an expedited evaluation of permit applications under certain limited and extraordinary circumstances. The decision to expedite the processing of an application is made by the NHDES Commissioner, in consultation with the appropriate Division Director and program staff. Every decision to expedite permits is made based upon the following criteria. The project must: further an important public interest, including but not limited to, protecting public safety, promoting economic development or improving environmental conditions; or avoid significant hardship; or demonstrate other good cause; and not unreasonably disadvantage other applicants already in the queue. To request an expedited review of an application, the applicant should send the request directly to the attention of the NHDES Commissioner, and should submit a copy of the request letter as the cover page when the full application is submitted to the appropriate NHDES permitting authority. All decisions are non-appealable.
<b>North Carolina</b>	North Carolina Department of Environmental Quality	North Carolina has an Express Permitting Program for water only. It offers a timelier review process for several environmental permits required for development. This program offers quicker permit decisions and certifications as well as consultation to identify necessary environmental requirements. Higher fees are charged to support additional staff for the express review. A pre-application meeting is required and a well-documented application with supporting technical information is necessary for a thorough and swift review.
<b>South Carolina</b>	South Carolina Department of Health and Environmental Control	South Carolina has an Expedited Review Program. The Department can collect additional fees to adjust staffing levels to accommodate the demand for expedited review. The expedited review fee is in addition to the normal annual air emission fees. All applicants requesting an expedited PSD construction permit must request and participate in a pre-application meeting to be held 90 days prior to submittal. An application form must be completed to request expediting. There are limitations on acceptance into the program. The days in deficiency cycle do not count against the timeframe goals. Additional staff will be hired to ensure other projects being reviewed under the normal review timeframes are continued to be issued in a timely manner. There are criteria for projects that are not eligible for expedite. For example, a construction project that is subject to the Non-Attainment New Source Review (NSR) requirements is not eligible for expedited review.

\*Information provided in the table came from each state agency permit program webpage.

**State Agency Streamlining Programs\***

<b>State</b>	<b>Agency Name</b>	<b>Streamlining Initiatives</b>
<b>Connecticut</b>	Connecticut Department of Energy and Environmental Protection	Connecticut has developed expedited and short processes to facilitate the permitting of minor activities. These processes include general permits, Certificates of Permission (COP), and temporary and emergency authorizations.
<b>Delaware</b>	Delaware Department of Natural Resources and Environmental Control	Delaware's Division of Air Quality uses a building block approach to permit applications. This building block approach allows you to custom-design your application to meet your specific project needs. There are five categories of forms in the application form series.
<b>Illinois</b>	Illinois Environmental Protection Agency	The Illinois Environmental Protection Agency has a web portal for environmental permitting. The web portal consolidates and makes more accessible information needed by applicants. The Agency offers registrations for smaller sources and is in the process of developing general permits, permits by rule, and criteria for expedited permitting.
<b>Indiana</b>	Indiana Department of Environmental Management	Indiana has an Environmental Stewardship Program which provides certain regulatory flexibility incentives in exchange for a commitment to continuous environmental improvement. Some of those services intended to expedite the air permitting process include on-site pre-permit application meetings with the permit writer and compliance inspector, post-application meetings with members, extended renewal term, and flexible permit language. They also offer E-Services (electronic permitting).
<b>New Mexico</b>	New Mexico Environment Department	New Mexico never implemented the streamline permit process allowed in their rules, 20.2.72.214 NMAC. However, oil and gas applicants can try to obtain either a streamline permit (see 20.2.72.300 NMAC) or a general construction permit, both of which takes 30-days to issue/deny. They do not have any streamline processes, permits, or regulations for PSD, nonattainment, or Title V because the federal regulations do not provide those options.
<b>Ohio</b>	Ohio Environmental Protection Agency	Ohio EPA has developed several types of permitting exemptions. These exemptions include: de minimis, permit exempt, and permit-by-rule. They have also developed general permits for certain well-defined operations that are not eligible for a permit exemption. The eBusiness Center is a secure portal for online business services and submittal of electronic applications.
<b>Wyoming</b>	Wyoming Department of Environmental Quality	Wyoming has an electronic system to submit applications, reports, and documents electronically.

\* Information provided in the table came from each state agency permit program webpage.