APPENDIX B

Permit Time-Frame Reduction and Tracking

B

The Texas Commission on Environmental Quality is charged with issuing permits and other authorizations for the control of air pollution, the management of hazardous and nonhazardous waste, the management of surface water, the protection of water quality, the remediation of soil and groundwater, and the safe operation of *in situ* mines and water and wastewater utilities.

Texas Government Code 2005.007 requires the TCEQ to report every two years on its permit application system, showing the periods adopted for processing each type of permit issued and any changes enacted since the last report.

The biennial update also includes a statement of the minimum, maximum, and median time periods for processing each type of permit—from the date a request is received to the final permitting decision.

Finally, the report describes specific actions taken to simplify and improve the entire permitting process, including application and paperwork requirements.

Permit Time-Frame Tracking

One of the agency's primary goals is to issue well-written permits that are protective of human health and the environment, and to do so in the most efficient manner possible. Each year, the TCEQ receives more than 100,000 applications for various types of permits, licenses, registrations, and authorizations.

In 2002, the TCEQ implemented the Permit Time-Frame Reduction initiative to improve efficiencies in the permitting process and to reduce the permit "time frame"—the amount of time required to complete all the steps in the permitting process.

In 2007, the agency implemented the Project Time-Frame Tracking initiative, focusing not only on permit processing time frames, but also establishing time-frame goals. The goal in most program areas is to review 90 percent of all permit applications within the established time frames. Since then, the agency has realized substantial progress, most notably reducing the permit backlog from 1,150 in 2002 to 588 at the end of fiscal 2010. At the end of fiscal 2012, the permitting projects backlog increased to 868 due primarily to the significant number of air and water rights applications received.

Each type of TCEQ authorization tracked within this process is prioritized as follows:

Priority 1. These projects require agency action before applicants may begin operations. This category includes uncontested applications for new permits and for amendments to existing permits for new operations.

Priority 2. These projects allow permit applicants to continue operating while the agency processes the request. This category includes uncontested applications for renewals of existing permits and for amendments to existing permits that involve activities already permitted.

The agency also established time-frame goals for processing each type of permit. These goals, or "target maximums," vary by program area and by environmental media.

Figures B-1 through B-6 show the status of Priority 1 and Priority 2 projects at the end of fiscal 2012 in the following categories:

- air permits
- waste permits
- water quality permits
- water right permits
- water supply permits
- licenses for radioactive materials and uranium
- permits and authorizations for underground injection control

Excluded from the data are projects that were contested or that involved significant review or approval outside of the TCEQ, such as the reviews that EPA conducts, that can significantly slow down the application processing times.

By the end of fiscal 2012, about 75 percent of all Priority 1 permits were issued within the agency's time-frame goals, as were 89 percent of all Priority 2 permits. The backlog numbers for air permitting were below the goals as a result of a tremendous increase in permit by rule registrations for oil and gas activities. In addition, performance outcomes for 2011 and 2012 were below goals for water-rights permits due to persistent drought across the state.

Greater Efficiencies

In recent years, the agency has identified a number of streamlining measures to improve efficiencies in permitting and to reduce paperwork requirements. Some of those measures are described below.

Expand online permitting options for applicants. The TCEQ continues to improve streamlined options for the e-permitting system, which allows applicants to apply for a permit online and receive authorization within minutes. A feature that went online in 2008 makes it easier for the agency to add more applications. The TCEQ has established fee incentives for applicants using the e-permitting system for three general permits—those

for construction stormwater, concentrated animal-feeding operations, and pesticides. Fee incentives for additional water quality and air permit-by-rule applications are also being considered.

The Air Permits Division recently expanded e-Permitting options to allow online completion of notification and air permitting requirements for the Barnett Shale area. New electronic options in air permitting were also being developed for use in late 2012 to handle the influx of notifications of oil and gas well completions required to satisfy federal requirements. Additionally, electronic permitting of maintenance, start-up, and shutdown (MSS) emissions for various industries, including oil and gas sites, will ensure faster responses for the regulated community and allow the agency to process the vast quantity of MSS authorization requests it anticipates. Finally, automation of change of ownership requests and voluntary voiding of authorizations through the e-Permitting system is under consideration, which would allow TCEQ air permitting personnel to focus on more complex permitting activities.

Expand the options for more standardized permitting through the use of general permits, standard permits, and permits by rule. The TCEQ offers over 20 types of standard permits in the air permitting program; 12 general permits in its water quality program; one standard permit, one permit by rule, and one registration by rule in the waste permitting program; and one general permit in the underground-injection-control (UIC) program. The continued use of these authorizations has significantly reduced the permit processing time frames by as much as 300 days in certain instances.

On Nov. 2, 2011, the TCEQ adopted a pesticide general permit authorizing the discharge of pesticides for the control of mosquitoes and other insects, vegetation and algae, animal pests, area-wide pests, and forest-canopy pests. The commission also adopted the "Nuisance and Abandoned Buildings Disposal" permit by rule in July 2012. This rule implemented legislation passed during the 82nd Legislative Session that enables communities with populations of 10,000 or fewer to demolish and dispose of nuisance and abandoned buildings on land that the community owns or controls under a permit by rule if certain criteria are met, including those exempting arid lands. On July 25, 2012, the TCEQ adopted rules to amend the UIC Class I General Permit to allow an additional waste stream to be permitted under the general permit (i.e., disposal of drinking water treatment residuals in bedded salt caverns or non-domal salt).

Develop an electronic payment system in coordination with the Texas.gov website (formerly TexasOnline) so that TCEQ customers can pay any invoiced fee and most permit application fees online. During fiscal 2011 and 2012, the agency's ePay system processed about 81,865 fee payments and collected $17 million in fees.

In September 2012, the TCEQ's delinquent fee protocol was integrated to interface with the agency's central database system (Central Registry), along with ePay and the TCEQ's revenue accounting system. This interface will ensure all TCEQ permits and fees are subject to the protocol and will increase the number and reduce the time it takes to collect delinquent fees.

Maintain an expedited permitting process for all economic development projects. In addition to the time-frame goals for standard permit processing, the TCEQ maintains an expedited permitting process for economic development projects. TCEQ personnel meet regularly with the Governor's Office of Economic Development and Tourism to prioritize economic-development projects. During fiscal 2011 and 2012, the TCEQ tracked and issued 26 permits for major economic-development projects.

Definitions

Number Received – The number of applications/permits/amendments received.

Number Processed – The number of applications/permits/amendments completed.

Total Under Review – The total number of applications/permits/amendments pending as of the report date.

Average Processing Time (Days) – The average processing time of applications/permits/amendments completed over the previous 12 month period, WITHOUT exceptions.

Target Maximum – The maximum days allowed for processing the specific application/permits/amendments of that row.

Number Under Review Exceeding Target – The total pending applications/permits/amendments exceeding target WITHOUT exceptions.

Percent Exceeding Target – The Total Number Under Review Exceeding Target divided by the Total Under Review.

Figure B-1

Air Permits (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average Processing Time (Days)	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target
Priority 1							
New Source Review (NSR) New Permits	11	14	155	372	240/285*	32	21%
New Source Review Amendments	29	34	363	454	270/315*	80	22%
NSR New Permits - Federal Timeline	0	0	0	1,015	330/365*	0	0%
NSR Amendments - Federal Timeline	0	0	4	872	330/365*	3	75%
Federal New Source Review (Prevention of Significant Deterioration, Nonattainment, 112g) New & Major Modifications	0	2	54	440	330/365*	15	28%
Permits By Rule	553	441	1,147	55	45	425	37%
Standard Permits (Without Public Notice), Changes to Qualified Facilities (SB 1126) & Relocations	81	54	108	37	45	14	13%
Standard Permits (With Public Notice)	7	2	17	80	150	0	0%
Standard Permits for Concrete Batch Plants (With Public Notice)	8	7	15	109	150/195*	0	0%
Priority 1 Totals	689	554	1,863			569	31%
Priority 2							
New Site Operating Permit (SOP)	2	3	53	280	330/365*	2	4%
Site Operating Permit Revision	23	26	208	155	330/365*	9	4%
New Source Review Alterations & Other Changes	46	65	52	50	120	0	0%
New General Operating Permit (GOP)	5	4	17	95	120	5	29%
General Operating Permit Revision	4	13	34	143	330	0	0%
New Source Review Renewals	39	39	259	188	270	15	6%
General Operating Permit Renewal	7	9	42	123	210	9	21%
Site Operating Permit Renewal	12	14	136	347	330/365*	26	19%
Priority 2 Totals	138	173	801			66	8%
Overall Totals	**827**	**727**	**2,664**			**635**	**24%**

** Denotes target maximum for applications received on or after Sept. 1, 2010.*

Figure B-2

Waste Permits (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average processing Time (Days)	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target
Priority 1							
Industrial & Hazardous Waste (IHW) New Permits	0	0	2	—	450	0	0%
IHW Class 3 Modifications	0	0	3	445	450	0	0%
IHW Major Amendments	0	0	0	—	450	0	—
Municipal Solid Waste (MSW) New Permits	0	0	12	187	360	4	33%
MSW Major Amendments	0	2	16	400	360	2	13%
MSW Registered Transfer Stations	0	0	2	327	230	2	100%
MSW Registered Liquid Waste Processor	0	0	0	618	230	0	0
Priority 1 Totals	0	2	35			8	23%
Priority 2							
IHW Renewals	0	1	36	523	450	9	25%
Priority 2 Totals	0	1	36	523	0	9	25%
Overall Totals	**0**	**3**	**71**			**17**	**24%**

Figure B-3

Water Quality Permits (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average processing Time (Days)	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target	Change in Percent Exceeding Target
Priority 1								
New Permits (Major Facilities)	0	0	0	0	330	0	0%	0%
Major Amendments (Major Facilities)	1	0	25	307	330	9	36%	3%
New Permits (Minor Facilities)	8	8	54	299	330	7	13%	-1%
Major Amendments (Minor Facilities)	5	2	38	301	300	7	18%	1%
Sludge Registrations	3	1	8	69	270	0	0%	0%
Priority 1 Totals	17	11	125			23	18%	1%
Priority 2								
Renewals (Major Facilities)	14	4	99	278	330	11	11%	0%
Renewals (Minor Facilities)	45	23	240	217	300	10	4%	-3%
Priority 2 Totals	59	27	339			21	6%	-2%
Overall Totals	**76**	**38**	**464**			**44**	**9%**	**-2%**

Figure B-4

Water Rights (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average processing Time (Days)*	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target	Change in Percent Exceeding Target
Priority 1								
Water Rights New Permits	6	8	68	210	300	35	51.5%	-2.3%
Water Rights Amendments With Notice	2	0	62	304	300	36	58.1%	3.1%
Water Rights Requiring Notice Review Pursuant to Work Session	3	3	39	452	300	17	43.6%	5.8%
Water Rights Amendments Without Notice, Rio Grande Watermaster Area	3	3	13	173	180	4	30.8%	7.7%
Water Rights Amendments Without Notice, Outside Rio Grande Watermaster Area	1	0	4	111	180	0	0.0%	0.0%
Priority 1 Totals	15	14	186			92	49.5%	1.7%

** Based on the prior 12 months*

Figure B-5

Water Supply Permits (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average processing Time (Days)*	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target	Change in Percent Exceeding Target
Priority 1								
Water District Expedited Bond Applications	8	3	26	44	60	4	15.4%	6.3%
Water District Regular Bond Applications	1	8	40	137	180	9	22.5%	2.1%
Water District Expedited Escrow Releases and Surplus Fund Requests	5	8	4	25	60	0	0.0%	0.0%
Water District Regular Minor Applications	8	14	22	68	120	3	13.6%	-2.4%
Water District Expedited Creation Applications	0	0	0	0	120	0	0.0%	0.0%
Water District Regular Creations & Conversions	0	0	4	112	180	1	25.0%	0.0%
Certificates of Convenience & Necessity - New or Amended	2	9	46	189	180	13	28.3%	10.4%
Certificates of Convenience & Necessity - Transfers	1	1	40	257	365	7	17.5%	0.0%
Water Engineering Plan Reviews	149	116	124	25	60	0	0.0%	0.0%
Exceptions	29	53	126	97	100	2	1.6%	1.6%
Alternative Capacity Requirements	7	4	24	69	90	1	4.2%	-1.4%
Priority 1 Totals	210	216	456			40	8.8%	2.0%

** Based on the prior 12 months*

Figure B-6

Radioactive Materials (Uncontested) Processing Times

August 2012

Application Type	Number Received	Number Processed	Total Under Review	Average Processing Time (Days)	Target Maximum	Number Under Review Exceeding Target	Percent Exceeding Target
Priority 1							
Radioactive Licenses for Waste Processing, Disposal and Uranium Recovery, Initial Issuance	0	0	1	1022#	885	1	100%
Low-Level Radioactive Waste Disposal License, Initial Issuance	0	0	0	1649#	990	0	0%
New Underground Injection Control (UIC) Permit^^	0	0	6	310	390	0	0%
UIC Class I Desalination General Permit	0	0	0	18	60	0	0%
UIC Permit, Major Amendment	0	0	3	694**	390	0	0%
Priority 1 Totals	0	0	10			1	10%
Priority 2							
Radioactive Licenses for Waste Processing, Disposal and Uranium Recovery, Renewal	0	0	8	*	885	8	100%
Radioactive Licenses for Waste Processing, Disposal and Uranium Recovery, Major Amendment	0	0	3	*	885	2	67%
Radioactive Licenses for Waste Processing, Disposal and Uranium Recovery, Minor Amendment (With Notice)	0	2	3	190	230	2	67%
Low-Level Radioactive Waste Disposal, Renewal	0	0	0	*	990	0	0%
Low-Level Radioactive Waste Disposal, Major Amendment	0	0	0	310	990	0	0%
Low-Level Radioactive Waste, Minor Amendment (With Notice)	0	1	9	360	230	6	67%
UIC Permit, Renewal	1	0	17	51***	390	0	0%
UIC Class V Authorization	2	2	30	53	60	21	70%
Priority 2 Totals	3	5	70			39	56%
Overall Totals	**3**	**5**	**80**			**40**	**50%**

** Pending radioactive licensing actions were transferred from the DSHS and not prioritized for immediate completion by SB 1604. Therefore, the licensing actions have not been completed and there is no "average processing time" for comparison.*

 # The "average processing time" is based on those licenses which have been issued by the TCEQ, which were under a set of legislative priorities as part of the SB 1604 transfer legislation. Due to these legislative priorities, other pending licensing actions and new actions coming in were mainly idle until statutory milestones were reached and those pending and new actions could be re-initiated.

^^ Pre-injection Unit Registrations (PIU) and Production Area Authorizations (PAA's) included.

*** A request for hearing was associated with three Pergan Marshall applications. Therefore, these permit applications were not counted in previous project time-frame tracking reports. A settlement was reached and the permits were issued in July, 2012.*

**** One renewal was processed in the previous year. The application was withdrawn.*