

Implementation of the Expedited Permitting Program

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Request for Expedited Processing

Title 30 Texas Administrative Code (TAC) Chapter 101, Subchapter J allows applicants to request the expedited processing of an application filed under 30 TAC Chapters 106, 116, or 122. Subject to the availability of commission resources for expediting permit applications, the Texas Commission on Environmental Quality (TCEQ) may expedite the processing of the application. The applicant should demonstrate that the purpose of the application will benefit the economy of this state or an area of this state.

To expedite an application, the applicant must submit the Form APD-EXP (Expedited Permitting Request Form), the appropriate surcharge, and the Form APD-APS (Air Permitting Surcharge Payment Form). Form APD-EXP can be found on the web at www.tceq.texas.gov/assets/public/permitting/air/Forms/NewSourceReview/20706.pdf. Form APD-APS can be found on the web at www.tceq.texas.gov/assets/public/permitting/air/Forms/NewSourceReview/20707.pdf.

For new applications, attach the APD-EXP form and a cover letter specifying the request to expedite the processing of your project with the application that you submit to the Air Permits Initial Review Team (APIRT). With the application submittal, the applicant will also submit the surcharge along with Form APD-APS to the TCEQ's cashier's office at the address indicated on the form.

For pending applications, an applicant only needs to submit the form APD-EXP along with a cover letter to APIRT. The applicant will also submit the surcharge along with Form APD-APS to the TCEQ's cashier's office at the address indicated on the form.

The applicant will receive an acceptance or denial letter from the TCEQ. The letter will be transmitted to the applicant by e-mail. If a request is denied, the surcharge will be returned to the applicant.

For permits by rule (PBRs) and standard permits that do not require public notice, applicants are required to use the ePermits process to expedite the processing of the application. No hard copy applications or requests will be accepted. The ePermits process will ask a few questions regarding expediting and then allow payment of the surcharge.

Surcharge Amounts

To process a permit application as part of the expedited permitting program, the Air Permits Division (APD) requires a surcharge. The purpose of the surcharge is to fund additional resources to expedite the application. The surcharge must be submitted along with the expedited request. Projects submitted through the ePermits system will be paid through ePay. The application will not be expedited until TCEQ has verified that the appropriate surcharge has been received.

The surcharge amounts for the various air permit projects are listed as follows:

- PBRs and Standard Permits (which do not require public notice) - \$500 (**non-refundable**, flat surcharge)
- Standard Permit (with public notice requirements) - \$3,000

- Title V General Operating Permit (GOP) - \$3,000
- Title V Site Operating Permit (SOP) - \$10,000
- New Source Review (NSR) case-by-case permit - \$10,000
- Federal NSR permits (Prevention of Significant Deterioration (PSD) including greenhouse gas PSD, Nonattainment (NA), Plantwide Applicability Limit (PAL), and Hazardous Air Pollutant (HAP)) - \$20,000

There is no additional surcharge for an NSR case-by-case permit, which accompanies a Federal NSR Permit; only the Federal NSR permit surcharge applies. Only one surcharge is required when applying for multiple federal permits.

Refunds will be processed for projects with a remaining surcharge balance amount of \$450 and greater, with the exception of PBRs and standard permits with no public notice. A minimal (5-10%) percentage of the surcharge will be used to cover other costs incurred by expediting the processing of applications.

The applicant (specifically the contact person indicated on the Form APD-EXP) will be contacted by e-mail prior to the depletion of the initial surcharge amount. If the applicant elects not to provide additional funding to continue with the expedited process, the application will revert to a non-expedited project and will be reviewed according to standard agency timeframes. The project may also be re-assigned to a different reviewer.

Application and Review Process

General Information

The length of time to complete the air permitting process depends on factors such as the complexity of the application, APD workload and staff availability, and required public participation timeframes.

Missing or incomplete required information or documentation in the permit application is a key factor that delays the processing of a permit application. When the application does not provide sufficient administrative or technical information, the APD staff must contact the applicant to obtain the required information. Therefore, one of the best ways to improve permit timeframes is to supply as much of the necessary information as possible in a technically complete application.

In addition, APD recommends that the applicant contact permitting staff in the planning phases of a project to address some issues that require long lead times to complete. For example, testing to develop emission factors, air quality analysis issues and modeling protocols should be discussed prior to submittal of the application.

Projects with excessive applicant initiated delays will be removed from the expedited permitting program. Some common examples of applicant delays which can cause an expedited project to be removed from the program are (not intended to be an all-inclusive list): change in project scope, requests for additional time to respond to deficiencies, multiple deficiency requests for the same administrative/technical information, lags in newspaper publication, or applicant's overall lack of response to APD initiated requests. Deficiency letters will remind applicants of the possible removal from the expedited program. If an application is removed, a letter will be sent notifying the applicant the project is no longer part of the expedited permitting program and the remaining surcharge balance will be refunded.

New Source Review (NSR)

Pre-Application

Pre-Application Meeting (recommended, but not required)

- Prior to submittal of the application package, the applicant may contact the appropriate APD section manager to schedule a pre-application meeting. The meeting may be a phone conference.
- APD assigns a permit reviewer to the project. This assignment is subject to change.
- At least three working days prior to the pre-application meeting, the applicant submits the following information to the permit reviewer, preferably electronically. This information may be modified by the permit reviewer as is determined to be appropriate for the nature or characteristics of the project:
 - An overview of the project, including a description of the processes involved and the types of emissions (contaminants and approximate quantities);
 - A discussion of federal applicability including netting evaluation, if applicable;
 - A discussion of best available control technology (BACT);
 - A list of permitting questions to resolve in the meeting (BACT, impacts review strategies, calculation methodology, rule applicability, etc.);
 - A draft application and modeling protocol, if available; and
 - Anticipated submittal date and project timing (e.g., start of construction).
- During the pre-application meeting, the TCEQ staff and the applicant will discuss the expectations for the applicant to stay on the expedited track and an anticipated timeframe for the project.

Draft Application

- Prior to submittal of the formal application, the applicant may provide a draft application and modeling protocol (if applicable) for preliminary evaluation by TCEQ staff.
- Draft applications and modeling protocols should be submitted at least three weeks prior to the planned, formal application submittal date.

- A permit reviewer reviews the draft application and the Air Dispersion Modeling Team (ADMT) staff review the modeling protocol (if provided). Staff will discuss any deficiencies or questions with the applicant within seven days of the receipt of the draft application and modeling protocol. The permit reviewer (and ADMT staff if needed) will work with the applicant to resolve those deficiencies and/or questions prior to the application being submitted.

Application Submittal

- The applicant submits the Form APD-EXP, the appropriate surcharge, and the Form APD-APS. The APD-EXP form and a cover letter specifying the request to expedite the processing of the project should be submitted to the APIRT. The surcharge along with Form APD-APS should be submitted to the TCEQ's cashier's office at the address indicated on the form.
- All requirements for the application including technical information to support the PI-1, PI-1R, or PI-1S, must be included in the application for it to be declared "administratively complete."
- If the applicant has conducted SCREEN modeling to determine compliance with standards or meet effects screening level thresholds, the modeling results and supporting modeling documentation may be included in the application. However, additional modeling may be required if the applicant's proposed operational scenarios, control technology, emission rates, or other representations change after submittal. In addition, a modeling protocol should be provided if the applicant did not provide it during pre-application. A second modeling protocol should be provided to address any identified issues during pre-application. If the applicant does not address all issues in the second modeling protocol, the application may be voided in accordance with APD's current voidance procedures.
- The applicant will receive an email containing a letter that states whether or not the application has been accepted into the expedited permit program. The application will not be expedited until TCEQ has verified that the appropriate surcharge has been received.

Application Review

Enhanced Administrative Review (EAR)

- Permitting and modeling staff review the application and draft a deficiency letter if needed.
- All deficiencies will be combined into one letter and sent to the applicant. The applicant has 10 days to respond to the deficiency letter.
- The permitting staff evaluates the applicant's deficiency response. If the response is not acceptable, the application will be voided in accordance with APD's current voidance procedures.

Technical Review – New Source Review (NSR)

- The permit reviewer conducts the technical review including BACT, calculations, federal applicability, and technical completeness.

- The permit reviewer follows the deficiency guidelines in the “Deficiencies” section for requesting additional information and preparing the permitting documents.
- Once emission rates are verified, the permit reviewer requests a complete Air Quality Analysis (AQA) that follows the approved modeling protocol or an analysis using the Modeling and Effects Review Applicability (MERA). The permit reviewer may void the application if the applicant fails to provide a complete and accurate response in the time specified.
- The permit reviewer reviews the AQA report or MERA analysis. If the AQA represents essential portions of the technical review used to determine BACT and impacts, the permit reviewer transfers the report to the ADMT.

Modeling Audit

- ADMT provides the permit reviewer with results of the first review and associated deficiencies to transfer to the applicant. If the applicant does not address all issues in the second modeling protocol, the application may be voided in accordance with APD’s current voidance procedures.
- If the air dispersion modeling does not pass the modeling audit two times, the permit reviewer may void the application in accordance with APD’s current voidance procedures.
- If the AQA requires impacts review by the Toxicology Division, the permit reviewer will coordinate with Toxicology staff.

Draft Permit

- The permit reviewer provides the draft permit to the applicant as well as the appropriate TCEQ Regional Office.
- Once written comments have been received within 30 days, the permit reviewer addresses the comments and updates the draft permit as appropriate. If substantial changes are made, the permit reviewer sends out a revised draft as needed to the applicant and the TCEQ Regional Office.
- The applicant is sent the second public notice package. Applicants must follow the applicable public notice requirements.
- The applicant communicates the publication schedules for the appropriate newspapers to the permit reviewer so that the anticipated publication date can be set.
- The applicant is responsible for providing tear sheets, affidavits, and the public notice verification form to the permit reviewer and to the Office of the Chief Clerk (OCC) in accordance with the timeframes established in the second public notice package instructions.

Other Topics

Deficiencies

The permit reviewer may send deficiency letters by email or mail directed to the listed technical contact and/or company official.

- If the applicant does not provide complete and accurate responses to the deficient items within 30 days, the permit reviewer may grant a 15-day extension. TCEQ staff will hold a conference call with the company official (listed on the application) to discuss the project and the consequences of a void.
- If the applicant has not provided complete and accurate responses to the deficient items at the end of the 15-day extension, the permit reviewer may recommend to management that the project be voided in accordance with APD's current voidance procedures.

Permits by Rule (PBR) and Standard Permits with no public notice

Application Submittal

The applicant submits requests for expedited processing of the application via ePermits www3.tceq.texas.gov/steers/. The applicant will also pay the \$500 nonrefundable surcharge at this time. **Note:** ePermits must be used for all PBRs and Standard Permits (with no public notice requirements). The surcharge will be paid through the ePermits system.

- All requirements for the application including technical information must be included in the application for it to be declared "administratively complete."

Technical Review

- The project is received by the section and assigned to the permit reviewer.
- The permit reviewer initiates technical review. Technical Review includes:
 - Federal and state applicability
 - Emissions calculations, process descriptions, and technical completeness
 - Impacts review (if applicable)
 - Any NSR permit-related review
 - Emissions table completion
 - Site review (if applicable)
- Deficiencies:
 - The applicant will receive a phone call and email explaining any deficiencies. The applicant will have five days to submit a complete and accurate response to the deficiency.
- The applicant will receive an authorization letter and emissions table by email (ePermits) or by mail.

Federal Operating Permits (Title V)

Application Submittal

- The applicant submits the Form APD-EXP, the appropriate surcharge, and the Form APD-APS. The APD-EXP form and a cover letter specifying the request to expedite the processing of the project should be submitted to the APIRT. The surcharge along with Form APD-APS should be submitted to the TCEQ's cashier's office at the address indicated on the form. Copies of the application must also be submitted to the appropriate TCEQ regional office and the Environmental Protection Agency (EPA) Region 6.
- The applicant will receive an email containing a letter that says whether the application has been accepted into the program. Once the applicant receives the letter confirming acceptance, the applicant can proceed with submitting the Form APD-APS (Air Permitting Surcharge Payment form) and the surcharge as indicated in the notice and described in the "Surcharge Amounts" section of this guidance document. The surcharge must be submitted within 10 days.
- The application will not be expedited until TCEQ has verified that the appropriate surcharge has been received.

Technical Review

- The permit reviewer initiates technical review. Technical review includes:
 - All applicable state and federal requirement determinations
 - Compliance Assurance Monitoring/ Periodic Monitoring (CAM/PM) evaluations
 - Technical completeness

Application Deficiencies

- The permit reviewer may send deficiency letters by email or mail directed to the listed technical contact and/or responsible official (RO).
- The applicant should respond to any deficiencies as expeditiously as possible, but no later than 30 days from the date of the email or letter, in order to prevent delays in the issuance of the permit. Note that the permit reviewer may request a shorter deadline. APD management must approve any requested extension.
- Failure to respond to application deficiencies within the timeframe requested by the permit reviewer may result in a voidance of the expedited project.

Public Notice Procedures

- Public notices for expedited projects will include the following sentence in the text of the notice: "This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J."

- Applicants should verify that the expedited language is included in the notice published in the paper. Omitted language could result in republishing.
- Applicants will not be required to re-publish notice if notice requirements have been fulfilled prior to requesting expedited permitting review.

Response to Comments (RTC)

If comments are received during the public notice period, APD will work with the Office of Legal Services to complete the official RTC.