

## Faster Air Pollution Permits Prominent on EPA's Agenda

By [Amena H. Saijid](#)

The EPA is looking at how to shorten the time it takes to get an air pollution permit for power plant and factory construction or expansion, the operations adviser to Administrator Scott Pruitt told Bloomberg Environment. The Environmental Protection Agency wants to identify what is holding up permits under the New Source Review program, EPA Chief Operating Officer Henry Darwin told Bloomberg Environment on the sidelines of last week's Environmental Council of the States conference in St. Paul, Minn.

"I want to get an idea of how many permits are out there that are sitting for longer than six months. That will help us prioritize our lean process," Darwin said, referring to the lean management system approach that he is helping to deploy.

Delays in the the process, for example, caused a proposed Sithe Global Inc. plant to be abandoned and built in Indonesia instead.

The EPA has held week-long sessions with state and regional agency officials to review new water pollution permits it issued under the National Pollutant Discharge Elimination System program, new drinking water permits for underground injection wells used for oil and gas extraction, and new chemicals selected for regulation under the Office of Chemical Safety and Pollution Prevention. Now it is turning attention to the New Source Review program, Darwin said.

The goal of the meeting is to identify the reasons for the delays and look for ways to improve, he said.

### Five-Year Plan

Pruitt's goal, which is folded into the agency's five-year [strategic plan](#), is to cut in half the number of permitting decisions that take longer than six months by September 2019.

"EPA doesn't track how long it takes to issue permits," Darwin said.

An applicant can expect to wait anywhere between two and three years to get a final New Source Review permit from the EPA, including appeals, Rich Alonso, an attorney with the Washington office of Sidley Austin LLP told Bloomberg Environment. Alonso served as the second-ranking Clean Air Act enforcement official at EPA between 2001 and 2007.

The costs of the delays for these permits affect the electric power and petroleum industries, Alonso said. Those industries would welcome any agency effort to expedite the process, which should ordinarily take no longer than a year, Alonso said.

A proposed 1,500-megawatt Desert Rock Energy Co. facility, to be located on Navajo reservation land in northwest New Mexico, was a casualty of the prolonged new source review permitting and appeals process, according to Alonso.

The project's backers—a joint venture between Sithe Global Inc., a merchant developer, and Dine Power Authority (DPA), an enterprise of the Navajo Nation Council—gave up on building the power plant and built in Indonesia instead.

### Limited Scope

The EPA issues the permits in Washington, D.C., Guam, Puerto Rico, U.S. Virgin Islands, Commonwealth of Northern Mariana Islands, and Indian country.

Seven states are delegated the authority to issue permits on behalf of the EPA using federal rules, while 43 states issue permits directly through EPA-approved state implementation plans.

Federal air regulations require the EPA to take one year to submit a new source review permit, but in practice it takes longer, according to attorneys.

That is because the EPA only starts the clock once it has deemed the application complete in a written notice, which the agency can take its time to issue, Alonso said.

## Complex Process

When the agency begins processing the application, the EPA review of air emissions modeling submitted in support of the project can be time intensive and complex, Megan Berge, an attorney with Baker Botts LLP, told Bloomberg Environment in an email.

In addition, an applicant cannot begin construction on a project until any appeals process is completed in its favor, Berge and Alonso said.

As Darwin goes through the process of reviewing EPA operations, he said he's learned that the EPA doesn't know a great deal about the time it takes to approve drafts of state-issued permits, measure compliance, and respond to states' requests.

For instance, the EPA doesn't track the time between when a violation notice is issued and corrective action is taken, he said.

Darwin previously served as Arizona's chief operating officer, where he implemented the type of lean management system that Pruitt now wants to adopt. Darwin adopted this from Toyota, which applied the approach to its manufacturing.

The overarching task is to identify the small problems before they become larger. Some larger problems at the EPA, for instance, began as smaller ones, Darwin said.

Becky Keogh, ECOS vice president and director of Arkansas Department of Environmental Quality, said she sees no reason why the reforms EPA is bringing to its permitting operations can't be adopted as best practices by states.

Bloomberg Environment was a sponsor of the Environmental Council of the States meeting.

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