

# 401 Water Quality Certification Process Kaizen Event 30 Day Follow Up Meeting

Ohio EPA Center for Excellence  
January 12, 2010 1:00 - 4:00 PM

## Participants

Pam Allen	Division of Solid and Infectious Waste Management
Rahel Babb	Division of Surface Water
Randy Bournique	Division of Surface Water
Jeffrey Boyles	Division of Surface Water
Hugh Crowell	Hull and Associates, Inc.
Bill Demidovich	Department of Administrative Services
Scott Doran	Chester, Wilcox & Saxbe, LLP
Sandy Doyle Ahern	EMH&T, Inc.
George Elmaraghy	Division of Surface Water
Bill Fischbein	Ohio EPA, Legal Services
John Kusnier	Mannik & Smith Group, Inc. (phone)
Rose McLean	Division of Surface Water
Nancy Mullen	Pittsburgh District - Corps of Engineers
Mike Pettegrew	Ohio Department of Transportation
Laura Powell	Ohio EPA, Director's Office
Rebecca Rutherford	Huntington District - Corps of Engineers
Karen Wise	Davey Resource Group (phone)

## Issues and concerns regarding the new process flowchart

Based on discussions at the 1/12/2010 follow up meeting, a number of changes to the revised flow chart were made. The revised flowchart is available on the DSW website and is dated 1/14/2010. In order to pinpoint the changes and facilitate discussion, each of the boxes on the flow chart have been numbered. Each of the issues recorded below is followed by a description of what, if any, change to the flowchart was made.

1. Time lines for pre-application reviews were not indicated on the flow chart.

While the time to complete the application process is a critical concern, the flow chart was not created to document that factor. Specific timelines and performance criteria will be established as the standard operating procedures are developed and documented.

2. The process must account for current application requirements regarding the need for a Corps Public Notice for a complete 401 application.

It was correctly pointed out that Ohio Revised Code requires a Corps public notice to be submitted for the 401 application to be considered complete. Submission of an application to the Corps and Ohio EPA at the same time (box #9), which is anticipated as the joint Corps/Ohio EPA application is developed, would automatically generate an incomplete application. Statute/rule changes will be required to correct this issue.

3. Clarification regarding Agency comments on “fast track” projects. Do we need a decision box regarding a request for a public hearing?

Language was added to box #18 to indicate that Agency comments may also be generated, however, these comments will be very minor in order to qualify for the “fast track” processing. The possibility of a request from the public for a formal hearing was also discussed. While a decision box was not added to the flow chart, the flow chart was modified to account for this possibility (see the connection between box #18 and box #34).

4. Do we need an off ramp for “fast track” projects?

The 12/14/2009 version of the flow chart indicated that the only outcome from the “fast track” was issuance of a 401 certification. The flow chart was modified to add a decision box into the process and account for both issuance and denial of the application (see boxes #23 through #27).

5. Should we say action as opposed to certification?

It was suggested that the term “certification” be replaced by the term “action” to account for the possibility of either issuance or denial. Instead, the flow chart was modified to indicate that the “fast track” process or the “standard” review could generate either a denial or issuance (see boxes #23 through #27 for the “fast track” and boxes #46 through #50 for the “standard” review)

6. Should Ohio EPA comment before the end of the public comment period? The time frame / performance standard for review/comment by the Agency is critical.

There was concern expressed that Ohio EPA's technical review of the application was being delayed until the end of the public comment period. The 12/14/2009 version of the flow chart was modified to convey the idea that the EPA technical review and the public comment period could be parallel activities rather than sequential ( box #29 now has two lines coming out of it, one to the public comment activities and one to the technical review boxes)

7. Clarification is needed that the pre-application meeting does not have to be at Ohio EPA.

Box #3 was modified to change the word "at" to "with."

In addition to the changes described above, box #12 was added to the flow chart to indicate fiscal processing of the fees.

## Next Steps

The tasks contained in the "Next Steps" table were reviewed by the group. Given the large number of tasks that were generated by the Kaizen Event, it was decided that a limited number of subcategories would be identified for the Agency to focus its first efforts. In the order in which they appear in the "Next Steps" table, those subcategories are:

Pre-Application Procedure  
Application  
Tiered Application Review  
Technical Review  
Mitigation  
Applicant Guidance Document

Lead individuals and some of the support staff were identified and timelines established for each of these subcategories with the exception of Mitigation. After discussion in the group, it was determined that it was premature to establish specifics on the mitigation subcategory. Additional progress on the pending mitigation rules would have to take place before detailed review procedures could be developed for the Ohio EPA staff.

The assignments made during the Follow Up meeting as well as other assignment made have been incorporated into a revised "Next Steps" table and are available for review on the

DSW web site. Please note that existing month/year dates in the document were converted to the first day of the following month for consistency and clarity.