

# **Air Construction Permits**

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# Three Most Misunderstood Concepts in Environmental Regulation

1. Averaging times
2. Enforcement
3. Civics

# Types of Air Construction Permits Issued by ADEM

- Non-attainment New Source Review- NOBODY has ever applied for one
- Prevention of Significant Deterioration Permit- approximately 5 to 10 per year
- Synthetic Minor Permit- keeps a medium-size permittee from needing a PSD permit
- Air Permit- for smaller sources
- No Permit- still subject to rules, but don't need to be registered in Permit system.

# General Issues with Construction Permits

Why should they be pre-construction? They're pre-operation in water medium.

1. Applicants won't waste money after starting construction on a facility which never receives a Permit
2. Public won't think a Permit is a done deal
3. Leverage for Permitting agency

# Other General Issues

- Why should Permits be appealable?
- Should Permitting Agency not act on an application if the site is not zoned property?
- What is the dividing line between pre-construction and construction?
- How is “de minimus” defined W/R/T individual emission sources at a facility?

# PSD Permits

- For new, large emission sources
- Two main requirements:
  - Install Best Available Control Technology
  - Perform dispersion modeling to predict ambient impacts

# PSD Permits

- “BACT” is actually a SOURCE SPECIFIC and POLLUTANT SPECIFIC rulemaking exercise. Huge burden on agencies and applicants. Invites second-guessing by public and EPA.
- Dispersion modeling is out-of-hand
  - complexity
  - way too conservative
  - short-term standards
- Leads to permitting decisions taking years in some States

# Quirky Issues Arising in Construction Permitting

- Public: We already have enough widget-making facilities around here.
- Public: Why did ADEM choose this site? It is unacceptable because of traffic, EJ, proximity to schools, etc.
- Public: ADEM does not have the resources to regulate the sources which already exist. No permits for new sources!
- New facility will cause noise and/or odors.
- Labor Union involvement



- Why should a chemical plant need a Leak Detection and Repair Program? No leaks should be allowed!
- We're a seaport but we don't want any more storage tanks containing organic liquids.
- Landfills: In Alabama, the host local government (city or county) must approve a new landfill. ADEM should overrule them.
- Our community doesn't want this. Do what's right!

# Conclusion

- Air Construction Permitting is complex.
- Sometimes, quirky issues arise which the permitting agency has no control over.
- For anything above a basic application, facilities need to sit down with the agency personnel before filing an application.