

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY PERMIT CONSOLIDATION ZONES

Prepared pursuant to Public Resources Code section 71035.10

Background

Public Resources Cal/EPA section 71035.10 requires the California Environmental Protection Agency and Trade and Commerce Agency to submit an annual report on the Permit Consolidation Zone Pilot Program to the Governor and Legislature by January 31 of each year. The Permit Consolidation Zone pilot program was created upon enactment of SB 1299 (Peace, Chapter 872, Statutes of 1995) and provides business permit applicants the option to participate in a test of whether a single facility compliance plan and process can substitute for multiple separate environmental permits and processes. Local agencies submitted competitive applications to designate specific areas as permit consolidation zones. In 1998, four (4) Zones were created: Fresno County, South Orange County, Kern County, and the City of Bakersfield.

Public Resources Code section 71035 et. seq. and California Code of Regulations, section 10400 et. seq. establish an innovative process for approving facility compliance plans. An applicant provides a Zone Administrator a Notice of Intent to prepare a facility compliance plan. During a sixty (60) day period the Zone Administrator identifies the permits required, facilitates communication of regulatory information between regulatory agencies and the applicant, and organizes any necessary coordination meetings. The applicant prepares a facility compliance plan and concurrently submits it to all regulatory agencies from which approvals must be obtained. The agencies review and approve the facility compliance plan within forty-five (45) days or provide the applicant with a written explanation of any changes necessary before the plan can be deemed complete and adequate. Once the agencies determine a plan is complete and adequate the plan is submitted to the Agency Secretary of the California Environmental Protection Agency and is approved five (5) days after being received.

Report Requirements

Public Resources Code section 71035.10 provides that this report contain the following:

- (a) A description and location of facilities permitted through a facility compliance plan, including the number of individual environmental permits that otherwise would have been required, an estimate of cost savings to the participating facilities and the involved environmental agencies as a result of the pilot program, and the degree to which compliance with the applicable environmental laws and regulations has been maintained or increased through the pilot program.
- (b) As appropriate, recommendations for modification, expansion, or elimination of the pilot program established by this chapter.
- (c) Recommendations for how the pilot program could be expanded to complex facilities including, but not limited to, whether the 45-day review of facility plan completeness and adequacy should be expanded.

(a) Facilities Permitted

During calendar year 2000, no facilities were permitted through the permit consolidation zones' facility compliance plan process. This suggests that businesses are either unaware of the opportunity to prepare a facility compliance plan through the Zones or that businesses do not see the value of preparing a facility compliance plan through a permit consolidation zone. Without businesses preparing facility compliance plans, the Zone process cannot be objectively assessed because there is no data upon which to establish whether efficiency or value is added through the Zone facility compliance plan process. Businesses have nevertheless endorsed the potential value of the Zone concept. Provided below is an assessment of whether the Permit Consolidation Zone Pilot Program as presently constituted provides the opportunity for an objective test of the Zone facility compliance plan concept.

(b) Recommendations for Changes to the Pilot Program

In assessing whether the program should be modified, expanded or eliminated, we performed a six-step analysis of the program's performance to date. The six elements of our analysis include: (1) legal and administrative guidelines, (2) inter-agency participation and cooperation, (3) resources available to the Zones, (4) business community understanding and awareness, (5) businesses choosing to participate, and (6) analysis of the effectiveness of the zone process. Our analysis of these program elements is provided below.

(1) Legal and Administrative Guidelines

Analysis: In 1997, the California Environmental Protection Agency developed regulations governing the permit consolidation zone pilot program which were codified as Title 27 California Code of Regulations 10400 et. seq. Participating Agency Agreements were executed by and between the participating agencies of each Zone in 1998. A guidance document was written in 1999 to explain to permit applicants how to prepare facility compliance plans. In May 2000, the four (4) Zones began using a new brochure to market the option to prepare facility compliance plans to business project proponents. Adequate legal and administrative guidelines have been established for the Zone pilot program.

Recommendation: None.

(2) Inter-Agency Participation and Cooperation

Analysis: The inter-agency cooperation and interest in further developing the Zones differs among the Zones. During 2000, the thirty-five (35) participating agencies that comprise the South Orange County Permit Consolidation Zone developed an Environmental Protection Permit Screening Form. A screening process using the form was implemented at all of the participating city and county building public counters. Permit applicants complete the form in order to identify various project features that require permits from agencies. The form is intended to eliminate confusion among permit applicants about what permits are required for a project and to help the Zone identify multimedia permit applicants that would be candidates to prepare Zone facility compliance plans. In November

2000, the South Orange County Zone and the Environmental Protection Permit Screening Form were awarded a 2000 Governor's Environmental and Economic Leadership Award in the category of Environmental and Economic Partnerships. This recognized innovation reinforced support for the pilot project and may be a milestone for enhancing business participation in the Zone process. The screening form's effect of enhancing clarity about permit requirements and reducing confusion among permit applicants and agencies may lower demand for permit assistance and enhance environmental compliance.

Recommendation: Continue testing and evaluating the South Orange County Environmental Protection Permit Screening Form.

(3) Resources Available to the Zones

Analysis: The State budget for the permit consolidation zone pilot program is \$5,000. The participating agencies agreed to allow existing staff members who are assigned other responsibilities to also perform permit consolidation zone assignments. The Zone's do not have staff assigned exclusively to Zone development and operations. The Fresno County Zone Administrator is also the County's Development Services Manager. In Kern County and the City of Bakersfield the Zone Administrators are staff members of the environmental health departments. In South Orange County, under a unique arrangement, the Zone Administrator is the Cal/EPA Permit Assistance Center Director. No state funding for Zone operations was provided to local agencies that applied for the Zone designation and local agencies were not required to budget for Zone operations as a condition of being designated as a Zone. In view of low business demand to prepare facility compliance plans it is difficult to know whether the resources that could be available to the Zones are adequate.

Recommendation: Enhance business community awareness of the opportunity to prepare facility compliance plans through the Zones and then evaluate the appropriateness of the resources available to the Zones.

(4) Business Community Understanding and Awareness

Analysis: The extent to which business project proponents within the Zones understand or are aware of the existence of the Zones and the option to develop a facility compliance plan varies among the zones, but is very limited. Zone brochures are randomly distributed and Zone Administrators intermittently explain the opportunity to prepare facility compliance plans in workshops, and meetings. In implementing the Environmental Protection Permit Screening Form, this year the South Orange County Zone established a system for routinely identifying multi-media permit applicants. Each of these applicants is now being mailed information about the Zone and the opportunity to prepare a facility compliance plan at the time the permits are needed. Because permit processes are complex, businesses may need additional information about the pilot program in order to make a fully informed decision about whether to participate.

Recommendation: Telephone consultations should be held between Zone staff and eligible businesses to encourage participation in the pilot program.

(5) Businesses Choosing to Participate

Analysis: During 2000, no businesses prepared facility compliance plans through the Zones. In prior years, two (2) business project proponents chose to prepare facility compliance plans. In 1989, Heart Hospital and Soil Rem Inc. prepared facility compliance plans through the City of Bakersfield Zone. In October 2000, Western Digital Corporation filed a Notice of Intent to prepare a facility compliance plan through the South Orange County Zone and participated in a comprehensive pre-application meeting. However, Western Digital thereafter expeditiously received its necessary approvals before it could prepare a facility compliance plan.

Few businesses initiated contact with the Zones to inquire about the opportunity to prepare a facility compliance plan. The South Orange County Environmental Protection Permit Screening Form allowed the South Orange County Zone to identify more than one hundred (100) business projects requiring multi-media environmental permits and eligible to prepare facility compliance plans. All of these project proponents were mailed an invitation to participate in the pilot project. The South Orange County Zone Administrator talked by telephone with five (5) project proponents who expressed interest in preparing facility compliance plans but declined to participate. Business representatives provided the following reasons for declining to participate:

- The applicants were uncertain whether the Zones enjoyed real support from participating agencies and did not want to subject their project to heightened scrutiny if the participating agencies did not in fact support the pilot program.
- The applicants viewed the pilot program as introducing uncertainty into the approval process, which created a concern about costing additional time and money to develop the first facility compliance plans.
- Applicants indicated that the Zone offered no financial incentive to participate. Until the efficiency and value of the Zone process is established, the risks associated with participating, with no clear incentive, may not be a wise business decision.

Recommendation: Continue seeking businesses to voluntarily participate as a community service to determine any efficiencies or value added through the Zone process.

(6) Analysis of the Effectiveness of the Zone Process

Analysis: The three (3) businesses that participated in the Zone pilot program expressed several important benefits of the Zone: a general atmosphere of government willingness to assist with the project, improved multi-agency coordination, better understanding of each permitting authority's program, better understanding of permit requirements at the start of the project, reduction in

duplicative meetings and information submittals to the agencies, and efficient resolution of potentially conflicting requirements. These benefits were recognized even though all three (3) projects either prepared facility compliance plans concurrent with traditional permit processes or prepared the facility compliance plan after obtaining approvals through traditional permit processes. No project has, to date, obtained all needed environmental permits exclusively through a single facility compliance plan approved through the permit consolidation zone process.

Recommendation: Continue seeking businesses to voluntarily participate as a community service to determine any efficiencies or value added through the Zone process.

General Assessment

The permit consolidation zone pilot program's facility compliance plan process and its potential remain largely untested. Only three (3) business projects have been approved through the Zone's facility compliance plan process and these were also approved through the traditional permit processes. The legal and administrative guidelines for the permit consolidation zones and a marketing brochure are created. Inter-agency participation and cooperation fostered through the Zones remains and the South Orange County Zone has achieved a high level of cooperation. Implementation of the South Orange County Environmental Protection Permit Screening Form appears to be effective at identifying business projects with multiple environmental permits eligible to be replaced with a single facility compliance plan.

There has been little demand from businesses seeking to prepare facility compliance plans. Resources available to the Zones limit the staff time dedicated to Zone development, operations and marketing. Limited Zone marketing indicates that the business community has minimal understanding and awareness of the Zones and the option to develop facility compliance plans. Potential applicants informed of the option to prepare a facility compliance plan were reluctant to participate because of uncertainty associated with a pilot project and no financial incentives. However, proponents of business projects approved through the Zones identified positive procedural benefits.

Interim Recommendation

The permit consolidation zone pilot program's facility compliance plan process should be fully tested so its potential benefits can be properly assessed. The State of California should attempt to build upon the permit consolidation zone pilot program's legal and administrative guidelines, the creation of individual zones, and the existing inter-agency participation and cooperation. Additional focused direct contact with businesses should be attempted to explain the pilot program and solicit participation. If there is additional business participation, the adequacy of resources available to the Zones will need to be re-assessed.

(c) Recommendations Regarding Expansion of the Pilot Program

There is insufficient data upon which to base any recommendations regarding the expansion of the program to complex facilities or whether the 45-day review of facility plan completeness and adequacy should be expanded.

Conclusion

The potential of the Permit Consolidation Zone Pilot Program to promote environmental protection and economic progress has not been fully evaluated. A full evaluation must be based upon data garnered from business projects approved through facility compliance plans. To date, an insufficient number of businesses have participated to serve as a basis to properly assess the efficiency and value of the Zone facility compliance plan process. The pilot program has demonstrated leadership in the area of environmental and economic partnerships through creative innovation. The Permit Consolidation Zone pilot program's potential for innovation and accomplishment warrants California's continued investment of time and resources. Over the next year, a concerted effort will be made to test the business community's interest in the program and to enlist participants. Next year's report will recommend whether or not the program should be continued.

Please contact Ms. Christine Kinne, Assistant Secretary for Permit Assistance, California Environmental Protection Agency, at (916) 322-2947 if you have any questions or need additional information.