

STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – December 14, 2009
Commission on Enhancing Agency Outcomes

Testimony Submitted by Commissioner Amey Marrella
Department of Environment Protection

Response to *Proposed Areas of Focus* – Preliminary Draft of November 30, 2009

Thank you for the opportunity to present testimony regarding the *Commission on Enhancing Agency Outcomes – Proposed Areas of Focus* – Preliminary Draft of November 30, 2009. We recognize that this is a conceptual document that will evolve over time. We felt, however, that it was important for us to highlight and comment on some of the 33 listed ideas that might directly impact the work of the Department of Environmental Protection (Department).

We are very pleased to see the inclusion of **Item 15 – *Implement lean processes in all executive branch agencies.***

As you may be aware, the Department has strongly embraced the LEAN process. LEAN, just to clarify, is a process improvement approach that identifies and minimizes wasted time and effort. We believe the Department's use of LEAN techniques is making our agency more efficient, allowing us to better serve our "customers," helping us eliminate backlogs in issuing permits or in finalizing enforcement actions and freeing up staff resources to focus on the emerging environmental issues facing our state.

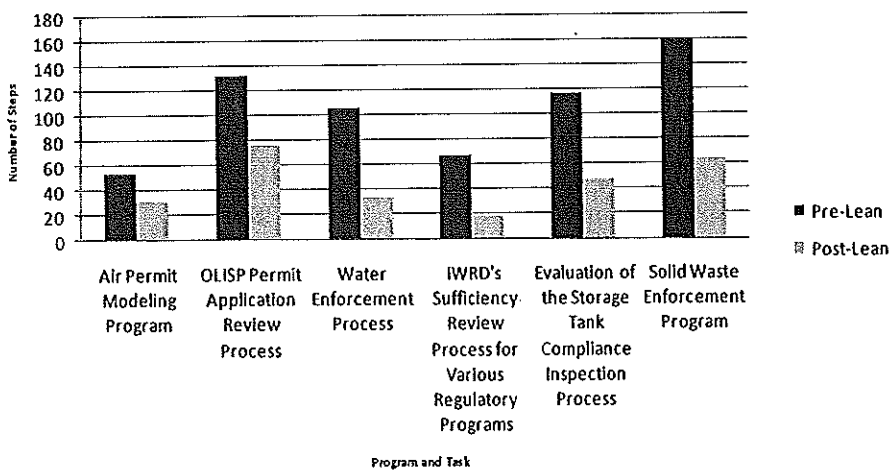
LEAN is helping the Department manage our programs more effectively so we can use our limited budget to better protect our natural resources and quality of life here in Connecticut. In short, the LEAN process is allowing us to do our work better and more efficiently – without lowering or compromising environmental standards.

Examples of Lean Results

| LEAN Team | Pre-LEAN Goals | Post-LEAN Results | Reduction |
|------------------------------|-----------------------------------------------------------------------|----------------------------|------------|
| Water Permitting Enforcement | Reduce violation response review time by 50% (60 to 30 days) | Average now 11.4 days | 81% |
| Water Permitting Enforcement | Reduce time to draft enforcement document by 70% (387 to 120 days) | Average now 96 days | 75% |
| Inland Water | Reduce initial response time on applications by 40% (272 to 163 days) | Average now 90 days | 67% |
| OLISP Permitting | Reduce initial response time from 205 days | Average now 26 days | 87% |
| Land Use Restrictions | Reduce process steps to approval of ELUR – currently 226 steps | Currently 52 process steps | 77% |
| NPDES Water Permitting | Reduce time to process permit by 70% (925 to 284 days) | May 2009 Event | Goal – 70% |

LEAN - Progress

The Number of Steps to Perform a Task
Pre-Lean Event vs. Post-Lean Event



We would also like to comment on Items 4, 6, 23 of the *Commission on Enhancing Agency Outcomes – Proposed Areas of Focus* – Preliminary Draft of November 30, 2009.

Item 4 – *On-line applications system statewide – example: DMV*

The Department is responsible for an automated campground reservation system that has been in place for almost 10 years to support our state park system. Both residents and nonresidents can preview and reserve any of the 1,345 campsites at 39 different locations throughout the state up to 11 months in advance of their planned stay. We have also enhanced this system to allow visitors to reserve picnic shelters at various parks as well as our two rustic cabins at Hammonasset, which were brought on line during last summer’s camping season.

We are also going into our third year of our automated sportsmens’ licensing program which provides resident and nonresident sportspersons the opportunity to acquire any of our licenses permits or migratory bird stamps required to hunt or fish in the state. This system is available on the Internet as well as through 136 town clerks offices, 55 retail agents and 7 DEP facilities. It has become the primary source of sales of hunting and fishing licenses, taking the place of an antiquated, paper-driven process. Changing from a paper to an electronic system can be challenge, but good planning and patience with our agents / customers has resulted in an efficient and convenient system.

It is also important to note that our state government has created the Department of Information Technology (DOIT) to oversee information technology and e-systems. The Department will continue to work with DOIT to implement our e-systems and information technologies.

Item 6 - *Streamline licensing and permitting processes*

- a. business to state government (example: water permitting, human service providers)*
- b. general commercial activity*
- c. consumers*

At the Department, streamlining our licensing and permitting processes is as important to us as it is to our regulated community. Timely, predictable and efficient permit/license processing can truly benefit both sides. So, when the Department can provide timely responses to applicants, reduce backlogs and improve quality and consistency of the work of reviewing applications we can take pride in our efforts. As for the regulated community, they get timely feedback on applications, predictability in processing timeframes and reduction in complexity. The general public also benefits from process transparency through the efficient agency review of permits and licenses.

While we are not sure what specifically the commission was referring to in their reference to “water permitting” in Item 6, the Department has undertaken a number of LEAN process improvement projects for permitting, administrative and service processes aimed at eliminating non-value added activities, reducing complexity and working smarter. (Please see our response to Item 15.)

These initiatives have resulted in impressive process results and have prompted strong interest in the Department across services and functions (i.e. not just in the permitting context but also enforcement, facility operations, administrative support, outreach, etc.).

In addition to LEAN, the Department uses both individual and general permits to regulate activities (especially water discharges). Individual permits are issued directly to an applicant, while general permits are permits issued to authorize similar minor activities by one or more applicants. Authorization of an activity under a general permit is governed by that general permit. The general permit process is typically quicker and less costly for applicants and for the Department, but requires more “up front” analysis by our staff to make certain the environmental standards are appropriate for a larger group of applicants. General permits, if properly scoped with implementable standards, can significantly streamline the permit application review and approval process.

We are happy to follow up with the Commission to answer any questions about our water permitting statutes, regulations and administrative process.

Item 23 – Consolidate administrative hearings and/or use judge trial referees to provide administrative hearings for all agencies, as is recommended for CHRO. Potential savings TBD (estimated in CHRO alone to exceed \$300 thousand)

The concept of consolidating the administrative hearings process into a single agency sounds attractive at first glance – especially at a time when we must consider all opportunities for cost reduction in state government. Upon closer examination, however, this concept may be counterproductive in some instances – possibly even causing more delays in decision making and resulting in inferior decisions that are less likely to withstand court challenges. This concern is especially true when it comes to the complex scientific matters that come before the Department’s Office of Adjudications.

Environmental cases are often complex, highly technical and involve a specialized area of law and science. Adjudicators in this arena must assess the testimony of conflicting scientific experts, the substance of exhibits, and other aspects of an evidentiary record. Because the Department’s adjudicators have a great deal of experience with environmental issues and agency policies and processes, they are able to efficiently examine what may be many days of testimony, hundreds of exhibits and thousands of pages of hearing transcripts to evaluate the administrative record and render a well-reasoned decision.

Our adjudicators are trained and experienced in the complexities of environmental law and the comprehensive mission of the Department. Thus, we believe our administrative decisions are more consistent and of higher quality when rendered by these adjudicators who understand legal precedent, environmental laws, and Department policies and procedures. Connecticut courts have long respected and relied upon the Department’s ability to maintain robust administrative records and to render sound decisions. Often, a Superior Court judge will adopt the facts found by one of our adjudicators and rely upon the reasoning of the adjudicator when rendering a

decision on the appeal of an administrative decision of the commissioner of environmental protection.

Given our unique mission and heavy reliance on reconciling complicated scientific data and associated legal argument, we suggest that the Department's Office of Adjudications be maintained within the Department. In essence this office maintains a very specialized knowledge base in administrative law that would be difficult to replicate should it be consolidated into a more generic state-wide office of administrative hearings.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at 860.424.3401.

