

Permitting Reform White Paper

At the Governor's direction, the Department of Environmental Protection (DEP) has undertaken a comprehensive review of the permitting processes in programs across the department. The goal of this review, and the initiatives undertaken as a result, is to reduce permit backlogs and allow the Department to issue fully compliant permits within the timelines outlined in the Department's Permit Decision Guarantee (PDG) policy without compromising enforcement of critical environmental protections that are the Department's mission and duty to the residents of Pennsylvania. Particular attention has been focused on ensuring that the timelines for two permits associated with natural gas development activities, 32 business days for the Drill and Operate Well Permit, and 43 business days for the Erosion and Sediment Control General Permit (ESCGP), are met.

Initiatives Underway

Over the past year, DEP has initiated numerous steps to eliminate redundant steps and better use staff time to reduce permit backlogs and expedite timeframes. Through a combination of new pilot approaches and revised operating procedures, the department has produced a significant improvement in permit application timeframes in key programs.

• **Oil and Gas Program Restructuring**

- The Office of Oil and Gas Management is restructuring its permitting programs across the three Districts which review and issue well and surface permits statewide. The purpose of this restructuring effort is to equalize the permit review workload and improve permit review consistency among the three districts by assigning one statewide program manager to oversee all surface permit review statewide and one program manager to oversee all well permits statewide. Once fully implemented, this initiative will improve the permit review process, enhance protection of resources, while reducing permit review backlogs.
 - ✓ This reorganization will go into effect during the first quarter of 2018.

• **Backlog Management**

- DEP has made tremendous progress in reducing the overall permit backlog across programs. As of November, that queue was reduced by 1,544 permits, permit applications overdue for review were reduced by 2,164, and permit applications overdue for completeness review have been reduced by 2,454. In some cases, permit applications were incomplete but not removed, or completed but not correctly closed out.

• **Reforms at DEP's Southwest District Office**

- In May 2017, DEP's Southwest District Office (SWDO) implemented an innovative new permit review approach referred to as the Pittsburgh 100. The goal of this program is to shrink review timelines of the Erosion and Sediment Control General Permit (ESCGP), a key development permit, to under 100 days while reducing backlogs for well permits. DEP is achieving this by:
 - ✓ Auditing the performance of SWDO, while bringing new leadership to the office;
 - ✓ Rotating pending permits to regions with capacity;
 - ✓ Reallocating positions within the Office of Oil and Gas Management in the SWDO;
 - ✓ Targeting new hires in key permit review areas;

- ✓ Providing permit reviewers with additional training to standardize permit review processes, including:
 - Focusing staff on the objective standards for the review of the ESCGP to ensure consistency and predictability;
 - Ensuring that professional standards for project design are met when issuing permits.
 - As a result of these steps, DEP is achieving the ambitious goal of the Pittsburgh 100. Since the implementation of these key steps, the SWDO has reduced its permit review timeline for the ESCGP by over 220 days, while cutting the backlog in half. Additionally, a backlog of well permit applications exceeding DEP's review timelines has been reduced from 289 in August 2017, to 36 today. The department will continue to implement the successful lessons of the Pittsburgh 100 to improve timeframes and reduce backlogs.
 - ✓ DEP expects to eliminate the well permit backlog by February 2018.
- **New Technical Guidance to Improve Consistency**
 - DEP is issuing new and revised technical guidance documents (TGDs), and improved permit application forms and instructions to clarify regulatory requirements to permit applicants and facilitate the submission of adequate permit applications to the department. Examples include the Comprehensive Environmental Assessment TGD, Draft Water Quality Certification Process for Interstate Gas Transmission Pipeline Projects TGD, Aquatic Resource Functional Assessment Protocols.
 - These Technical Guidance Documents help the regulated community submit complete and accurate permit applications the first time, thus streamlining the review process and allowing DEP to allocate resources efficiently.

New Initiatives Going Forward

To capitalize on the success to date in reducing permit timeframes and eliminating backlogs, DEP is implementing new approaches to continue to modernize its permitting processes. Often, bureaucratic and outdated processes lead to permit timeframes extending beyond decision timelines. DEP will implement additional initiatives going forward that aim to reduce duplicative processes and reduce backlogs and wait times, while continuing its mission of protecting public health and the environment.

- **ePermitting**
 - Since 2015, DEP has been working to modernize permitting activities through an electronic permitting initiative. Currently, underground mining permits and storage tank renewal authorizations are able to be applied for online. This has helped to reduce incomplete application submittals, which take up valuable permitting time and has made permit tracking easier. Electronic submission helps prevent applications being submitted with missing information or lack of application materials, because the system will not allow incomplete applications to be submitted.
 - The Oil and Gas Program estimates that an electronic well permit application will help reduce well permit review times by 30%. DEP will use a phased approach to add a number of permit applications across programs to the ePermitting system by the end of 2018, thereby guaranteeing additional wait time reductions across programs.
 - ✓ Through four phased steps, DEP will add the following programs to the ePermitting system by the end of 2018:
 - Office of Oil and Gas Management
 - Bureau of Air Quality
 - Bureau of Radiation Protection
 - Information Technology
 - Bureau of Waterways Engineering and Wetlands
 - Office of Active and Abandoned Mining Operations
 - Division of Storage Tanks
 - Bureau of Clean Water

- **Improved Analytics**

- In order for DEP's permitting program to function effectively, permit applications need to be tracked through the entire timeline of the application, from submission to final resolution. This will directly result in accurate performance measurement and will enable the agency to balance workload effectively for efficient performance.
- At present, DEP does not have a comprehensive system in place to track permits. DEP is in the process of developing a data dashboard which will allow reviewers and managers at all levels to have significantly greater oversight of both individual programs, as well as the programs they are responsible for as a whole. When implemented the new dashboard will give managers a clearer picture of backlogs and current permit timeframes and help DEP to prevent a backlog before it begins.
 - ✓ The new dashboard tool will be operational by mid-2018.

- **New Review Process for Key Development Permits**

- DEP will expand a pilot initiated in Southwest District Office which has reduced permitting timeframes for key development permits to as short as 26 days even when deficiencies are initially identified.
- To ensure consistency and timeliness, applicants will be given a suggested permit review checklist that mirrors the checklist used by department staff. The checklist will contain important items that should be a part of the application, and will further reduce wait times caused by permits being judged "administratively incomplete".
- Where an applicant proposes a Best Management Practice or Post Construction Stormwater Management structure which is not in strict accordance with the checklist, the applicant will be required to include written justifications to explain the basis of their engineering judgement. The submittal of the checklist will also allow the permit reviewer to identify specific areas of the application which are out of the norm and to concentrate review time on.

- **Simplified Water Obstruction and Encroachment General Permit Process**

- DEP receives several thousand Chapter 105 General Permit registration requests annually, for projects ranging from pipeline stream and wetland crossings to the construction of access roads. These permits require registration forms with both DEP and the US Army Corps of Engineers.
- Until now, these duplicative processes have led to confusion among applicants, due to different but similar information being required for two steps of application.
- To streamline the application process, DEP negotiated with the US Army Corps of Engineers a simplified registration form for Chapter 105 General Permits and their associated Federal Permit known as the Pennsylvania State Programmatic Permit (PASPGP-5).
- The simplified registration form will improve the quality of submitted General Permit registration requests by applicants, and reduce the review timeframes by DEP.
 - ✓ The simplified General Permit registration form will be available for use by applicants in February 2018.

Legislative and Regulatory Changes

While the department will be focusing on internal processes that can be improved that will lead to reduced backlogs and reduced wait times, it will also be support legislation that makes the department's application process more user friendly. Among these items are:

- **Extending Permit Term**

- DEP will support legislation that would eliminate the requirement that a well be constructed within one year of issuance and replace it with a three-year term.

- **Multi-Well Pad Permitting**

- DEP will support legislation that allows for permitting of multiple wells on one well pad site with one application, making permitting more efficient for operators and DEP.

- **Well Flexibility**

- DEP will support legislation allowing adjustments of a well bore location of up to 50 feet from the location initially proposed on the plat accompanying a permit application.

- **Oil and Gas Funding**

- To accomplish the above initiatives, and achieve consistent permitting for oil and gas, DEP needs a consistent and stable source of revenue to fund the Oil and Gas program. Over the past several years, as the initial rush of Marcellus drilling has slowed, revenue to support the program, which is largely derived from fees associated with well permits, has declined and the program is currently running a \$600,000 a month deficit. DEP's oil and gas staff complement has been decreased from 226 employees to 190 employees. Well permit review staff have been reduced by 43% in the Southwest District Office, and by 15% in the Northwest District Office. These reductions have unquestionably impacted the timeliness of permit review, and the department's ability to oversee its responsibilities.
- In order to address this issue, DEP will soon release a proposed fee package regulation which will increase the well permit fee from \$5,000 per well to \$12,500, and needs the administration's support to move it forward as quickly as possible in order to bring the program back to full compliment.

- **Budget Initiatives**

- Since 2006, DEP's staff levels supported by the General Fund have decreased by 43 percent across all programs and 23 percent overall, even as the department shouldered significant new responsibilities for the oversight of the natural gas sector and water and air programs. To continue to provide high-quality, responsive oversight, DEP must continue to invest in its operations. Staffing reductions have been seen across programs, and led to increased permit timeframes and reduced review times – due to fewer people being asked to do the same amount of, or in some cases, more work.
- The Governor understands the need for the department to have adequate staff to both protect the natural resources of the commonwealth and reduce backlogs and wait times. Therefore, in this year's budget the Governor will be proposing a \$2.5 million investment in staffing for DEP, which will allow the department to hire 35 new employees in high priority positions across programs and regional offices. This investment will help DEP fulfill its environmental mission, while also reducing backlogs and wait times.