

DEP Permit Efficiency Review Task Force Land Use Committee Recommendations

This document includes a list of problem areas and suggested enhancements developed by the Land Use Subcommittee of the Permit Efficiency Review Task Force, to increase the efficiency of the Land Use Management permit programs while maintaining the level of environmental protection afforded by these programs. The recommendations are listed by topic area, including technology, permit application process (external and internal), and administrative. Under each heading, individual problem statements are in **bold type** and associated recommendations are listed thereafter. These statements do not necessarily reflect any priority of the Committee and do not include implementation details and plans that would have to be established if these recommendations are accepted moving forward.

Recommendations shown in italics may be implemented in the short term without changing rules or statutes.

Underlined text reflects revisions based on 6/18, 6/25, 7/2 and 7/16 meetings.

I. TECHNOLOGY

1 Permit applications and reporting (monitoring data, condition compliance info, etc.) for almost all LUM programs are submitted, processed and issued in hard copy paper form. This process increases the cost and time to prepare, submit and process permit applications.

Recommendations

1.1: Migrate to electronic submission and processing of permit applications and associated reporting. This "ePermitting" will require upgrading IT infrastructure, including networks, wiring, routers and other hardware.

1.2: Develop and implement an e-portal for receipt of suitable applications. Build e-portal so that applications cannot be submitted unless project critical information is included.

1.3: Make electronic submission of the suitable applications mandatory. Use a phase in schedule to allow applicants to adjust to this new requirement.

1.4: Expand GIS tools for screening proposed projects for environmental constraints. Expand CAD tools in order to review electronic submission of plans.

1.5: Facilitate upgrading of computers to keep up with industry standards to allow permitting staff to view GIS data, CAD designs and run other appropriate programs.

1.6: Digitize all maps and data to be available on Geographical Information Systems thereby creating easy access for regulated community and DEP staff.

1.7: Enable staff to remotely access Department data systems from the project sites via wireless laptop computers and give them appropriate GPS mapping tools.

1.8: Recognize email communication between the applicant/agents and DEP staff as the formal record of correspondence for permit applications.

1.9 Migration to e-permitting will require a training component for all staff implementing the tools.

2. Permit review staff are often assigned the additional duties required to make programmatic technology improvements such as web site update and maintenance, electronic reporting, GIS Mapping layer integration, DEP Bulletin reporting fixes, and NJEMS maintenance (standard permit condition library, Letter builder, Projects, etc.). Due to inadequate staff level programmatic improvements are difficult to complete efficiently with existing staff.

2.1: Dedicate IT technical staff within each program to maintain and enhance systems and to take on specific technology work tasks so that those familiar with internal processes can make needed process improvements. This will free up the permit review staff to focus on that task.

3. The lack of consolidated data base of permit information makes it difficult for DEP staff and the regulated public to easily access older permit data that is often required to process new applications.

3.1 Consolidate permit application data bases by importing relevant historical data into the current data management system (NJEMS), thereby eliminating redundant searches and incomplete information searches. Identify how applicants may be able to provide relevant historical permit data thereby reducing the burden by DEP staff to search databases.

II. PERMIT APPLICATION PROCESS (External)

1. Applicants with limited knowledge often submit incomplete applications and consultants often have difficulty keeping up with new rules and amendments. This leads to administratively deficient applications and significant revisions during the technical review period and, as a result, requires expenditure of DEP staff time to shepherd applications through the process. Rutgers University, DCA and others provide land use permitting workshops for continuing education, but rely on DEP staff to prepare updated hand out materials, power point presentations and to make the presentations. Use of existing permit review staff for these important educational activities detracts from their ability to process permit applications.

1.1: Outsource training activities to a delegated authority to develop and maintain educational programs on regulations and permit application requirements for consultants, and for required training of well drillers and pump installers. Do this through an RFP process and solicit only firms that will require minimal DEP staff assistance. Develop a training policy that defines when DEP staff will take the lead on training and at what point DEP will defer to outside groups to handle the training. DEP would maintain the lead training role as rules are promulgated but defer to outside trainers at a later time.

2. Programs often receive woefully inadequate application submittals, with between 24% - 40% of applications being deemed administratively deficient. A majority of applications are also deemed to be technically deficient. DEP staff devote a significant amount of time interacting with applicants and consultants on deficient applications, often waiting long periods of time to receive required information outlined in deficiency letters. In addition, the Department does not have the authority to hold consultants accountable for the quality of their work.

2.1: A certain level of professional expertise, education and/or certification should be mandated for preparation of certain permit applications.

2.2: Develop clear informational requirements and checklists for completeness and quickly reject all applications that are deficient, regardless of scope of deficiency.

2.3: Require applicants to certify that all required application information has been included with any permit application submission, and if the information is found to be missing, reject the application as deficient and require resubmission of the entire application.

2.4: Require a mandatory pre-application meeting for certain categories of DEP permit applications (large scope and potential impact), to clearly define the specific requirements for any forthcoming permit application. Require the submission of a completed "readiness checklist" with all pre-application meeting requests and post the checklist somewhere on the applicable DEP Program web page so members of the public have access to basic project information. If the application is submitted without all of the defined information, reject the application as deficient and require resubmission of the entire application.. Consider charging a fee for some category of "non-mandatory" pre-application meetings to discourage such meetings (with possible exception of small project/single family home applications).

2.5: Implement a new process to cancel an application when, after two notices of technical deficiency, it remains deficient, and credit only half of the original permit application fee toward a new application for the same project.

2.6: Also, establish a mandatory time frame for submission of deficient information to the DEP and if the requested information is not received within that timeframe, cancel the application and require submission of a new application.

2.7: Do not refund application fees if an application is denied, or is an application is cancelled or withdrawn late in the process.

2.8: Develop a qualitative rating system of consultants' performance based on the rate their applications are rejected as administratively or technically deficient and post these consultant reports on the DEP web site.

2.9: Require e-mail addresses for applicant, owner, agent and consultant be provided in the application and notify all parties of the any and all application deficiencies, by e-mail.

3. Applications for various permits related to the same project are often submitted separately and not simultaneously, causing inconsistencies and inefficiencies in the review of the "project" as a whole.

3.1: If a DEP-regulated development requires a number of permits from a single program in the DEP, require that all permit applications are submitted as one package to that program, and not separately, and reject any application for a project if it does not include all applications for that project. This will allow for consolidation of all permit review actions and issuance of one program decision for the project. This requirement could become mandatory, with exceptions allowed in cases where a pre-application meeting or concept meeting establishes specific permit application types that should be "bundled" or defines a schedule for submission of multiple permit applications. (Discussions from Process Team meetings needs to be incorporated here, as applicable.)

III. PERMIT APPLICATION PROCESS (Internal)

1. Application requirements, review criteria and timeframes of the various permit programs are inconsistent because they are governed by different statutes, administrative rules and policies that have been adopted over decades. This results in confusion and prevents implementation of efficiencies in administrative processing of permits. It greatly increases the complexity for managing data systems and building the e-portal required to implement electronic permitting.

1.1: Standardize and streamline the administrative and technical requirements for all permit programs to make them consistent with each other. Include uniform application requirements (including public notice requirements), review criteria and review time frames, including graduated review timeframes based on permit complexity. Decisions on this recommendation need to consider Federally delegated programs and other permit types where synchronized review time frames may not be appropriate. Further evaluation of regulatory change vs. statutory change must be completed.

2. The requirements for submission of administratively and technically complete applications are often unclear to the regulated public and change over time in response to amended rules and other factors. This can make it difficult for applicants to navigate the permit process.

2.1: Update and maintain all permit application checklists with input from the regulated public to ensure that they are current and available on the web. Need clear definition of administratively complete and technically complete. Outsource administrative completeness reviews.

3. Technical deficiencies are often identified late in the review process, necessitating extension of the application review timeframe or waiving of 90-day rights to allow the deficiency to be resolved. The current 20-day timeframe for initial review is unmanageable with existing staff allocation.

3.1: Reallocate staff resources and dedicate additional staff review earlier in the permit review process for specific technical elements to identify technical deficiencies in a timelier manner and be able to so notify the applicant.

4. Site plans, surveys and development plans have different requirements and do not always include the information necessary to process permit applications, often resulting in requests for amended plans and information.

4.1: The Department should clearly define the full scope of information that is required to be included on all plans, for each permit type, to facilitate the review of permit applications.

5. The Department relies heavily on the data provided by the extensive stream and groundwater monitoring network established in New Jersey. While these networks are expensive to maintain, they are critical to comprehensive, accurate and timely permit application decisions.

5.1: The Department should establish a long-term reliable source of funding to ensure the maintenance of these networks and the tools needed to both gather and manage this data and look for outside partners to assist in funding these critical networks. Consider if permit fees should reflect maintenance of these outside systems that are critical to our environmental review.

6. Division of Water Supply has created a Master Permit that allows for an unlimited number of water main extensions (with purveyor approval) that is under utilized, thereby increasing the workload of Division staff. The Division performs an overall water availability and firm capacity analysis for the water supplier, and then the purveyor is authorized to make as many service connections they can under the approved limits of the Master Permit.

6.1: Amend regulations to specifically delegate authority to purveyors to issue water main extensions through a Master Permit and mandate that large purveyors use the Master permit. This would require that purveyors have all current data from the Department with regard to safe yields in order to make consistency determination at the time of the purveyor's permit decisions.

7. The Water Supply Management Act currently requires a 5-year agricultural certification program. For non-agricultural diversions, the water allocation rules allow for the issuance of water allocation permit for up to 10 years. It would be more efficient to allow the program to extend the effective periods for both of these approvals in those situations where there are not significant adverse environmental or water supply impacts.

7.1: Amend the Act at N.J.S.A. 58:1A-6a. (2) to establish the effective term of agricultural water usage certifications not to exceed ten years. Amend the water allocation rules to extend the non agricultural permit period from 10 to 15 years in those situations where there are not significant adverse environmental or water supply impacts, and only where all safe yield data are current.

8. As required by statute, water connection permits must be renewed every year. The Division of Water Supply processes about 700 annually and regulates the installation of backflow preventers necessary to ensure safe drinking water supply.

8.1: Delegate responsibility to ensure that backflow preventers are installed throughout systems to the water purveyors with oversight by Division.

9. Administrative rules sunset every 5 years. Re-adoption is a labor-intensive process, requiring a significant amount of staff and management effort, particularly for programs with numerous permit programs and implementing rules. Smaller amendments are often made within the 5-year period on an as-needed basis, but these amendments do not automatically extend the 5-year sunset.

9.1: Pursue amendments to the Administrative Procedures to require mandatory re-adoption of rules every 10 years instead of 5. In addition, consider a simplified rule making process for re-adoption without change, for minor amendments and for amendments required to satisfy a Federal (or similar) mandate.

10. Permit application fees for the various land use permits are based on many different factors, including complexity of processing, cost of a project and cost for FTEs. Projects requiring multiple permits also require multiple fees and many of the initial administrative deficiencies are related to improper fee calculations/submissions.

10.1 Standardize fees across the various Division of Land Use Regulation permit types and simplify calculation for multiple permits.

11. Statute 13:D-122 allows applicants with permit fees over \$1,000.00 to pay in 3 installments. This creates an additional administrative burden for staff since payments are due based on permit processing milestones and often requires DEP to chase payments.

11.1: Eliminate the Installment Payment Schedule for Permit Applications from the statute or significantly increase the base permit fee subject of this provision.

12. The Land Use Regulation statutes and regulations require different buffers for coastal wetlands, freshwater wetlands and riparian zones, which sometimes results in confusion and delayed actions. With the exception of the wetland buffer rule in the Coastal Zone Management rules, all other buffers are proscribed/defined.

12.1: Establish a uniform series of wetland buffers pursuant to the CZM rules, consistent with the buffer requirements established for other Land Use Regulation programs.

13. The Freshwater Wetland Mitigation Council was established by statute to oversee wetland mitigation banks, and currently meets 6 times a year, often lacking a quorum. Significant staff effort is involved in preparing for these meetings, detracting from the DEP ability to review and process mitigation plans associated with permit applications. Since State and Federal rules outline specific criteria for success of wetland mitigation projects, the Council review is often redundant and does not always add value to the process as evidenced by their infrequent challenges to Department decisions.

13.1: Work with the Freshwater Wetlands Mitigation Council to reconsider roles and responsibilities, to evaluate options for changes to meeting schedule, and to establish a streamlined process for operations, including but not limited to options to distribute information electronically to members and take vote on projects via e-mail or conference calls.

14. Dewatering permit activities for 31 days or less are regulated under permit by rule. Quite often, this 31-day period is not sufficient to cover the required dewatering process, necessitating a full application for dewatering activities exceeding 31 days.

14.1: Given the temporary nature of dewatering activities and the minimal potential for adverse environmental impacts, amend the permit by rule to allow dewatering for a longer time frame (60 days) in cases where no sensitive resources are likely to be impacted.

15. Applications for water allocation permits that also require the approval or consistency determination of the Pinelands Commission are often delayed while the programs await resolution of those issues.

15.1: Support adoption of clear, consistent standards in the Pinelands CMP to facilitate permit decisions from both agencies. In the absence clear standards, require that any water allocation permit application to DEP be submitted concurrently with any application to the Pinelands Commission.

16. Both DCA and DEP regulate construction activities in NJ, however the standards that apply to construction in special flood hazard areas are inconsistent. DCA recognizes the minimum regulatory standards of the Federal Emergency Management Agency (FEMA) while DEP, in response to increasing flood damages throughout the state, has adopted more stringent standards that exceed the minimum regulatory requirements of DCA and FEMA. This inconsistency causes confusion to code officials and the regulated public.

16.1: Engage DCA in an effort to align the standards for construction in floodplains (low floor elevations, acceptable uses of crawl spaces, electrical and mechanical equipment locations, etc) consistent with the higher standards adopted by DEP.