

Water Quality Committee Meeting
May 7, 2008

Attendees:

Gail Smith
Walter Mugden
Tony DiLodovico
Julia LeMense
Jeff Tittel (left when Julia arrived)
Nancy Wittenberg
Jeff Reading

Minutes:

The Committee noted that while a great deal of background information regarding permits and staffing had been provided there was still no detail with regard to problems, either from DEP's or the regulated community's perspective.

The Committee discussed the need for a water supply planning program similar to that in place to address wastewater treatment capacity. It was noted that for groundwater withdrawals of less than 100,000 gallons there is no tracking so you cant tell the impact on overall supply. It was noted that the water supply program is in Land Use.

Jeff Reading, Assistant Director, Division of Water Quality provided an overview of the NJPDES permitting programs. Jeff explained that the NJPDES permits are operating permits which have 5-year terms and then must be renewed. Expired permits are administratively extended and remain in full force. Thus there is an on-going relationship between DEP and the permittees. The NJPDES program is a hybrid Federal/State program. Some aspects of the program are delegated to local authorities. As delegation is of relevance to work of the Task Force it was agreed that additional information will be provided and shared with the full Task Force.

With regard to how the permitting universe is managed it was explained that the program identifies a number of "priority permits" as part of an agreement with EPA. The specific criteria used include; areas subject to recent TMDLs, areas with known impairments, permits subject to new Federal effluent guidelines and time expired. As prioritization of permits is also of relevance to the work of the Task Force it was agreed that details with regard to the criteria and the process by which permits are selected will be provided and shared with the full Task Force.

Jeff reviewed permit reports which provided detail with regard to numbers of permits and processing status. It was apparent that one permit could skew average processing times reported. Thus some disclaimer might be helpful to provide more realistic data.

The role of the federal EPA was discussed. EPA defines and requires DEP to report on backlogs. Walter Mugden explained that New Jersey's backlog numbers are good.

Jeff discussed how the renewal of permits on a five year cycle, particularly some minor permits, may not be worth the effort that they require. The environmental benefit does not support the effort. However the 5-year renewals are required by federal and state law. It was suggested that we identify which permits are environmentally important like is done for the EPA priority permits. Jeff explained that in addition to the EPA "priority permits", each manager annually goes through a prioritization process to select the permits that will be worked on in their Bureau. Walter Mugden summarized an Environmental Benefit Permit System that New York has in place where they establish and publicize criteria for prioritization. However, EPA does not approve of this system.

Jeff explained that the NJPDES program has expanded the use of General Permits (GPs) over the past 10 –15 years, in order to deal with the increase in the NJPDES Permit Universe. The list of GPs will be provided. The group suggested other opportunities for GPs be explored such as for golf courses where you could tie in the wastewater reuse requirements.

The group discussed resource allocation and whether the NJPDES program had the ability to move people to areas where permit backlogs existed. Are permit writers transportable? It was noted that this was not generally done as different programs have different expertise requirements and individuals who write permits also have other responsibilities.

The Construction Activity Stormwater General Permit was discussed as an example of DEP "delegating" issuance of approvals to another agency. In this instance, the Department issued the master GP but has delegated the issuance of GP authorizations to the Soil Conservation Districts.

The issue of conflicting requirements between DEP programs was discussed. An example discussed was where a conflict exists between the standards for drinking water and effluent limits for wastewater dischargers based on surface water quality standards. The surface water quality standards are more stringent in some instances than the drinking water standards. Thus water coming out of the water treatment facility may not meet the discharge effluent limitations. This is the result of disconnects between the Federal Safe Drinking Water and Clean Water Acts, and the fact that Surface Water Quality Standards must protect more than human health. Resolving such conflicts would improve efficiencies. Such conflicts often result in legal challenges which require resources.

Returning to the question of what are the problems?

- The permit process times are good compared with DEP goals and with other permitting agencies in the country. Thus there does not appear to be problem.

- While there is a backlog no one is complaining. This may be a problem as there may be instances where revised permit conditions are needed to protect or improve water quality.
- A problem identified was how to implement water quality standards for low level bioaccumulative pollutants (e.g. PCBs, dioxin) from historic contamination. This is a challenge under the existing Clean Water Act framework. Only limited options to address these pollutants exist. Developing TMDLs watershed by watershed is a waste of resources as the answers will be the same. Jeff suggested EPA do a national TMDL for PCBs. Walter Mugden agreed to raise this issue at EPA.
- The Clean Water Enforcement Act results in unwillingness by permittees to accept permit limits. This results in permittees opting to do studies which require staff review. It also will interfere with the ability to implement trading under TMDLs.

Topics for next meeting:

TWAs, permit administration and stormwater permits.
Permit Coordination/Readiness Checklist