

PERMIT EFFICIENCY TASK FORCE DRAFT PROPOSED RECOMMENDATIONS
WATER QUALITY SUBCOMMITTEE
DRAFT AS OF JUNE 23, 2008

1. PROBLEM STATEMENT:

There is a staffing problem at NJDEP. Vacancies, the inability to promote and move staff to other positions within the Department affects the efficient use of resources. Because staffing levels are so low, permit reviewers cannot keep up with the workload. There is a hiring freeze because, although most permit programs are funded through permit fees, permit fees do not reflect the total costs of NJDEP staff to review permit applications. The process for hiring makes it difficult to find the “best fit” candidate for a position.

RECOMMENDATIONS:

- 1.1 Permit fee schedules should be revised to reflect the actual cost of NJDEP staff to review applications. Fees would reflect actual time spent in reviews and total costs to the Department (salaries, benefits, pension, etc.). In addition, other overhead should be reflected in the permit fees.
- 1.2 Re-examine the hiring process to determine if there is a way to ensure that individuals who are hired are fully aware of their duties and that NJDEP knows the fit is good to avoid poor job satisfaction and low morale.
- 1.3 Re-examine personnel policies and procedures to determine if there is a better way to allow more flexibility in promotions, transfers, temporary work assignments, etc.
- 1.4 During times of increased permit workload, NJDEP should contract out for permit review services, similar to the way air permits are reviewed. The consultants work at NJDEP offices and do not work for the regulated community and therefore no conflict of interest exists.

2. PROBLEM STATEMENT:

NJDEP has not been able to realize certain efficiencies because the technological upgrades are not in place. Staff has estimated that currently needed upgrades will not be in place for 10 years. Examples are general permit renewals for stormwater permits. NJEMS cannot handle the 2,000+ renewals that must be processed at the same time, so the system has to be shut down and the work done manually. There are also retrieval problems with NJEMS. Another example is OPRA requests. Excessive time is spent responding to OPRA requests, much of it manually copying files. New Jersey has one of the broadest public records laws in the nation; and NJDEP gets by far the most OPRA requests of any State agency.

RECOMMENDATIONS:

- 2.1 Electronic Permitting- On March 17, 2008, the Department proposed regulations that

would allow Division of Water Quality permit applications to be submitted electronically. The Department must make it a top priority to ensure that it can accept and process applications in this manner. With regard to sealed plans, the plans can be submitted electronically and reviewed and then a hard copy of sealed plans can be submitted prior to the issuance of the permit.

- 2.2 There appear to be a number of places that new technology can help streamline the process, fixes or enhancements to existing technology can make life easier, and may also help with the resource allocation issues raised by staff. For example, e-filing of materials will make information available in digital format to NJDEP staff, as well as to the public, which may ultimately reduce OPRA resource expenditures. Many of the resource intensive elements of OPRA cannot be avoided (determining privileges, etc.), but for general requests for application materials and technical documents, this should certainly help. Many of the OPRA requests are repetitive. If there are multiple requests for the same file, the information should be stored electronically so that it will be readily available for the multiple requests. There should be a uniform and efficient process to facilitate the staff in responding to OPRA requests.
- 2.3 NJDEP should direct more resources to NJEMS and prioritize NJEMS upgrades to achieve maximum efficiencies.

3.0 PROBLEM STATEMENT:

NJPDES permits are up for renewal every 5 years. At each permit renewal cycle, NJDEP sets new effluent limits based on the latest water quality standards. The regulated community finds that it is difficult and costly to achieve many of the effluent limits and challenges the limits by performing studies and through litigation. Conflicts between drinking water standards and surface water standards also contribute to the problem. The challenges to the limits, both the review of individual studies and the costly litigation, are inefficient for the Department, because staff must review studies, participate in adjudications, and perform other functions in addition to permit writing. The Standards program is within Land Use and Water Quality staff believe that coordination between the NJPDES Program and the Standards Program could be improved so that implementation of standards is more efficient.

RECOMMENDATIONS:

- 3.1 Better coordination between the NJPDES Program and the Standards Program is needed. Both the Groundwater and Surface Water Standards Programs should either be within the Science and Research Program or within the Division of Water Quality and not under Land Use. This would help with coordination between those developing the standards and those implementing the standards through the issuance of permits.
- 3.2 The renewal cycle for permit holders within watersheds should be the same or coordinated. NJDEP could adjust the renewal dates so that they are synchronized by watershed. The permit holders would then be better able to get together to perform the various studies necessary to confirm that the permit limit is appropriate for the various permit holders. NJDEP could facilitate the coordination. Completing the studies on a watershed basis, rather than for the individual discharge point would result in better

studies, and a more efficient and predictable system. In addition, the study continues to be paid for by the regulated community, thus not increasing the burden on the NJDEP.

- 3.3 Drinking water quality standards for certain constituents are much higher than the surface water quality standards. For example, the drinking water standards set an action level for copper of 1300 micrograms per liter (ug/l), while the instream aquatic life criteria are near 10 ug/l. Therefore, a wastewater treatment plant is required to treat for copper and meet the more stringent SWQS. Another example is zinc. Water companies often add zinc orthophosphate for corrosion control. While there are often simple, inexpensive changes that water companies can make to reduce copper and zinc in the water, there is no incentive or requirement for them to do so.

The drinking water standards should consider the end receptor. Even if water is safe for human consumption, it should be recognized that a large portion of the water is discharged either directly or indirectly to surface water bodies, for example through irrigation systems and the sanitary sewage system. Water companies should be permitted as large industrial users and be required to work with the treatment plant to bring the discharge to acceptable levels.

4.0 PROBLEM STATEMENT:

The Division of Water Quality has a number of problems with rule writing and regulatory implementation.

RECOMMENDATIONS:

- 4.1 Hire designated rule writers within the Division of Water Quality. Designated rule writers would have training to work on rules and understand the process and can work more efficiently within the process. Having designated rule writers will ensure awareness that there are certain rulemaking options that allow NJDEP to change rules by Notice of Administrative change. Rule writers with expertise in certain areas could be dispatched to other programs to assist when workloads fluctuate (typically around the time of rule changes or massive renewals, etc.).
- 4.2 Consider establishing a rulemaking bureau.
- 4.3 NJDEP staff, as well as OAL, have indicated that there is an implementation process which is part of promulgation of new standards and of new rules. This process should be reviewed and evaluated to make sure it works for all parties affected by the proposed rule change, particularly those tasked with writing permits who interact with the applicants.

5. PROBLEM STATEMENT:

NJDEP often conducts reviews of applications that are also reviewed at the local or regional level, resulting in redundancies. In addition, in the case of stormwater, NJDEP also has different divisions issuing storm water permits and interpreting the storm water management regulations, resulting in possible inconsistencies and confusion in the regulated community.

RECOMMENDATIONS:

- 5.1 Sewer extension designs must be signed and sealed by a licensed professional engineer and reviewed at the local level and sometimes at a regional level. The Department requires treatment works approval for extensions, among other things, adding more than 8000 gpd to the system. NJDEP should consider increasing this threshold as long as the sewage utility or authority endorses the design. NJDEP uses the flow increase information to keep track of capacity information; however, this information could be reported to NJDEP without a duplicative engineering review of the design. This procedure could also apply to Water Distribution Line Extension permits, which is a Land Use function.
- 5.2 Uniform reviews/review redundancies- The Department needs to consolidate its stormwater functions into the Division of Water Quality. Currently the Division of Water Quality issues stormwater permits to all municipalities, public complexes, and public highway authorities that require all projects under the permittee's jurisdiction or subject to the permittee's review to comply with the stormwater management rules yet both the Divisions of Watershed Management and Land Use Regulation conduct these same stormwater reviews for individual projects. In addition the permit reviews and regulatory interpretations being performed in multiple DEP divisions is a source of confusion to the regulated community who have to address stormwater management issues with various arms of the Department. Consolidation of stormwater management into the Division of Water Quality would result in the regulated communities' clearer understanding of the requirements and would eliminate a significant time constraint that is currently imposed on Land Use Permits and WQMP Amendments.

6.0 PROBLEM STATEMENT:

Renewal of Individual NJPDES Permits is very time consuming.

RECOMMENDATION:

- 6.1 The appropriate use of general permits can greatly reduce staff time spent on permit renewals. Many individual discharge to ground water permits for domestic wastewater facilities have the same permit requirements. The Department should consider issuing a General Permit for these existing facilities, which would allow the Department to renew the permit for these facilities through one permit renewal action. The Department should also consider issuing a General Permit for domestic discharge to ground water projects that receive a revision to the WQMP based upon the clustering provision of the new WQMP rules. This may encourage applicants to cluster projects and preserve at least 70% of the land associated with facilities that are not in sewer service areas.

7.0 PROBLEM STATEMENT:

Efficiencies could be achieved if more projects were to be fully evaluated early in the

planning and permitting process.

RECOMMENDATIONS:

- 7.1 The Department should expand the role of the Office of Permit Coordination and allow preferred project types to have that office facilitate all of their permit reviews and approvals.

DRAFT