

**PERMIT EFFICIENCY TASK FORCE DRAFT PROPOSED RECOMMENDATIONS**  
**WATER QUALITY SUBCOMMITTEE**  
**DRAFT AS OF JULY 15, 2008**

**1.0 PROBLEM STATEMENT:**

NJDEP has not been able to realize certain efficiencies because the necessary 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

**RECOMMENDATIONS:**

- 1.1 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.
- 1.2 NJDEP should direct more resources to NJEMS and prioritize NJEMS upgrades to achieve maximum efficiencies.

**2.0 PROBLEM STATEMENT:**

The regulated community finds that it is difficult and costly to achieve many of the effluent limits established by the Department and challenges the limits by performing studies and through litigation. 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.

**RECOMMENDATIONS:**

- 2.1 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 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.

**3.0 PROBLEM STATEMENT:**

Conflicts between drinking water standards and surface water standards contribute to permitting inefficiencies. Due to differences in the requirements for establishing standards for surface water, surface water quality standards for certain constituents are much higher than the

drinking water quality standards. Examples include copper and zinc.

**RECOMMENDATIONS:**

- 3.1 The Department should identify those standards that conflict and work towards implementing uniform standards or implementation plans that are the most protective of all end receptors. The Department should consider permitting water companies as large industrial users thus requiring them to work with the treatment plant to bring the discharge to acceptable levels.

**4.0 PROBLEM STATEMENT:**

Permit Writers within the Division of Water Quality perceive a lack of coordination and communication between the NJPDES Program and the Standards Program. Friction between the programs contributes to inefficiencies. The permit writers feel their work would be made more efficient if they were included earlier and more actively in the rulemaking and implementation processes.

**RECOMMENDATIONS:**

- 4.1 The rulemaking process should be re-examined to determine if there is a better way to ensure that rule writers closely interact with permit review staff so that the ramifications and implementation logistics of all new and amended rules are fully understood, and the new rules can be written in a manner that facilitates implementation.
- 4.2 The rulemaking process should be re-examined to ensure that the process includes the development of implementation tools and requirements and that these tools are in place when new and amended rules are being considered.
- 4.3 The placement of the Standards program within Land Use should be reviewed to determine if it contributes substantively to the inefficiencies. If the Standards program was within the Division of Environmental Regulation, it would be under the same assistant commissioner, possibly enabling better coordination and communication and facilitating funding of the Standards program.

**5.0 PROBLEM STATEMENT:**

The Division of Water Quality has a number of problems with rule writing and regulatory implementation resulting in inefficient use of permitting staff time.

**RECOMMENDATIONS:**

- 5.1 Designate and provide training for specific rule writers within the Division of Water Quality. Rule writers with expertise in certain water quality areas could be dispatched to other programs to assist when workloads fluctuate (typically around the time of rule changes or massive renewals, etc.).
- 5.2 Review and evaluate the existing process which addresses internal and external rule implementation to make sure it works for all departmental units affected by the proposed

rule change, particularly those tasked with writing permits who interact with the applicants.

## **6.0 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 inconsistencies and confusion in the regulated community.

## **RECOMMENDATIONS:**

- 6.1 NJDEP should consider increasing the regulatory threshold for sewer extensions where the sewage utility or authority endorses the design. This procedure could also apply to Water Distribution Line Extension permits, which is a Land Use function.
- 6.2 All stormwater functions currently performed by the Department should be clearly identified and made known to the public.
- 6.3 The Department should strive to consolidate all stormwater functions under one program. At a minimum the stormwater management rule and interpretations should be within the NJPDES program. The municipalities, counties and state agencies could then have one point of contact for stormwater issues. This would assist these entities in complying with their responsibility to enforce the stormwater management rules on projects.
- 6.4 Where the Department believes it must perform stormwater management reviews, it must ensure that all stormwater management rule interpretations are consistent with the NJPDES program interpretations.
- 6.5 The Department has established a Stormwater BMP Manual Technical Review Committee consisting of representatives from the regulated community. The Department should rely on this Committee for assistance in establishing stormwater management rule interpretations relating to BMP's.

## **7.0 PROBLEM STATEMENT:**

Renewal of Individual NJPDES Permits is very time consuming.

## **RECOMMENDATION:**

- 7.1 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.

**8.0 PROBLEM STATEMENT:**

Efficiencies could be achieved if more projects were to be fully evaluated early in the planning and permitting process.

**RECOMMENDATIONS:**

- 8.1 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.

**9.0 PROBLEM STATEMENT:**

The public often does not have access to the rulemaking process until the proposed rules are published, making substantial changes to the rule proposal after publication difficult due to unavoidable legal constraints. Feedback from the public and the regulated community earlier in the rule proposal formulation process may result in increased efficiencies by reducing extensive changes as a result of the public comment process, reducing post-adoption litigation, and facilitating the preparation of guidance and other documents that will assist in implementation recommendations expressed elsewhere by the Task Force.

**RECOMMENDATIONS:**

- 9.1 Identify opportunities to use methods such as Advanced Notices of Proposed Rulemaking and interested party review to provide the public with earlier notice of rule proposals and an opportunity to comment before rule proposals are formalized and published.
- 9.2 Identify opportunities to use negotiated rulemaking and formulate an advisory committee made up of stakeholders to negotiate complicated and highly contested rule proposals first and then submit the proposals to the NJDEP for formal rulemaking with broader public notice and comment opportunities.