

Testimony
By
John Hanger, Secretary
Department of Environmental Protection
Before the Senate Majority Policy Committee
Tuesday, March 16, 2010

Thank you Chairman Erickson and distinguished members of the committee for the opportunity to discuss the permitting process for the Department of Environmental Protection. Our permitting processes support environmental protection, economic growth and safeguard the health of Pennsylvania's citizens through streamlined processes that will ensure greater regional consistency and statewide uniformity.

As the means by which the department fulfills its mission, DEP utilizes a system of permits, licenses, registrations and certifications to protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment. The department's permits, licenses, registrations and certifications cover an array of programs that maintain various levels of permitting and provides the department with the ability to thoroughly review proposed plans that insures that facilities are operating in a manner that will not harm the public's health, degrade the commonwealth's environment or its natural resources.

For the last several years, the department has taken innovative steps to create a more efficient permitting process, including: employing electronic reporting; revising permit application forms; researching the use of third party consultants; as well as providing more detailed instructions to clarify the types of information the department requires for a complete permit application and review. In addition, DEP has sponsored a number of training sessions regarding the department's regulatory programs to specifically reach the regulated community and the consultants that prepare permit applications.

DEP has expanded its use of general permits to authorize activities under various environmental statutes from small construction erosion and sedimentation activities to the production of alternative fuels. These permits streamline the permitting of classes of activities that are sufficiently similar in design or operation to warrant general requirements or conditions. This class of permits allow for a shorter application process and a quicker review by the department.

DEP and the Pennsylvania Department of Transportation unveiled a Smart Growth Permit in October 2003 to speed up infrastructure improvements of bridges, highways, utility lines and other items in aging communities, helping Governor Rendell fulfill his pledge to revitalize the state's cities, towns and borough. The initiative reduced the number of individual stream work permits by 22 percent and cut the processing time from several months to a few weeks for most projects.

DEP also created an innovative program to reduce the time it takes to issue air plan approvals to new or expanding businesses. The plans detail how facilities will control

emissions to ensure compliance with state air quality regulations. The changes maintain the same degree of environmental protection and public involvement while removing unnecessary obstacles that in some cases cut in half the amount of time it takes to receive approvals.

Another way the Rendell administration is thinking creatively about environmental challenges is with a general permit to relieve financial burdens on foundries by providing alternate beneficial uses for clean, spent foundry sand, encouraging new markets and removing useable materials from the waste stream.

Likewise, DEP's Clean Fill Policy creates a general permit for the placement of materials in residential and industrial settings; revising standards that environmental groups and contractors said were inordinately complex and didn't do the job. The new policy is more consistent with efforts designed to facilitate the redevelopment of communities.

Electronic Permitting and Filing

In this age of cutting-edge technology and innovation, the department has found that electronic permitting or ePermitting is one of the most efficient and accurate means of processing permits. ePermitting saves time and resources for the applicants, the regulated community and the department. DEP has received positive feedback from those that have used this technology and the department strongly supports the expansion of ePermitting, but the cost of designing and implementing these systems is a major obstacle. The department's current program budgets do not provide adequate funding to design and implement these systems. The department has not included the costs of electronic permitting into any of its regulatory fee adjustments, but with sufficient interest, this maybe an option with the support of the legislature and the department's stakeholders.

Despite limited funding available to expand ePermitting, DEP has had success with a small number of program-specific processes (particularly those programs funded through a Special Fund) including the development of an Air Quality Request For Determination (RFD). An RFD is used by an applicant to determine if a permit is needed to construct or modify an air discharge. The on-line RFD offers automatic data validation and error checking, document attachment and notes capabilities, online help, a printed user manual and a secure submission process. Data is automatically reviewed for completeness, and feedback is provided immediately to ensure a successful submission. The automatic data review and faster communication between users and DEP staff saves significant time. Generally, decisions on RFDs are made by the department within 30 days of receipt of a complete on-line application.

The department has worked with Pennsylvania Department of Transportation to develop a system that allows the exchange of electronic data between the PennDOT operating system and the department's efacts data filing system. The data can be used to process either a General Permit No-11 or an individual/small projects joint permit application for the maintenance or construction and operation of water obstructions and encroachments. The eApplication process has resulted in decreased application review times by the department and an increased ability to efficiently track administrative or technically

deficient applications, which has resulted in a savings in time and money for both agencies.

The further development of the online ePermitting framework would allow DEP to automate all paper-based permitting processes in the future, collecting specific information that is required for permits, allowing for unique program review and approval processes for new permit applications and renewals. Applicants will have the ability to log into the enterprise ePermitting website and review the status of their applications, improving communications and transparency.

The ePermitting technology will also provide for a common electronic interface for a program specific permit review and approval processes employed by each DEP program office, as well as other state and federal environmental review agencies. All of this can be accomplished while facilitating and maintaining the unique data reporting needs required for each unique permit application. DEP is actively reviewing the enterprise ePermitting applications being used by other states and is also conducting a market study of products available commercially that could potentially reduce the amount of time and the cost of developing an enterprise ePermitting system for DEP from scratch.

One of the department's current electronic reporting applications, the Electronic Discharge Monitoring Report (eDMR), allows wastewater permittees to log into a secure online application and submit their required discharge reports, including the monitoring point, the pollutants required to be reported on, and the chemical concentrations at each monitoring point for the sampling period. In addition, the department also provides for on-line submission of air quality continuous emissions monitoring data, waste biennial reporting and radon mitigation reports.

The DEP has also implemented a successful on-line waste hauler registration program. Waste haulers are able to apply for or renew their license, as well as pay the fee on-line.

Last year, the department offered an electronic filing system for grant applicants through the deployment of its on-line grant center to apply for funding through the Conservation Works!, Green Energy Works (Biogas, Combined Heat and Power and Solar) and Coastal Zone programs. In the future, applicants will be able to electronically apply for all grants. The current on-line grant program eliminated at least three weeks of DEP review time. DCNR and the DEP will integrate this program into an electronic grants management system called eGrants for both agencies.

With the increase in oil and gas activity due to the interest in the exploration and development of the Marcellus Shale, the department is currently updating its system for oil and gas operators to file production reports electronically.

Third Party Consultants

DEP has also evaluated the use of third party consultants to facilitate permitting, but again, the department faces the challenges of costs associated with hiring consultants or reviewers.

DEP retained the services of a third party consultant to review radiation monitoring plans for municipal waste disposal facilities. The department hired a third party to aid in the review because it did not have that expertise within the department to carry out this type of review. Since the initial installation of radiation monitoring, the DEP has obtained the necessary abilities to review these applications.

Another example of the Department utilizing a third party review is in our Erosion and Sedimentation Control program. Three years ago the Department developed a program where an applicant could submit a Erosion and Sedimentation Control permit application to a DEP certified third party for review. The third party reviewer would work with the applicant and their consultants to correct any deficiencies in the application. Once the application was corrected, it would be certified by the third party reviewer. The Department would then act upon the application within 14 days, guaranteeing a quicker review. The Department has 40 consultants certified as third party reviewers.

Regional Consistency

As a regulatory agency, the department is tasked with providing guidance, enforcing the state's vital environmental laws and taking action when needed. Located in every corner of the state, DEP staff must be available immediately when an environmental concern or emergency arises. With DEP six regional offices, six district mining offices and its central office in Harrisburg, the need for regional consistency and regulatory uniformity is vital to ensure the safety of Pennsylvania's citizens, communities and environment.

DEP has developed a series of integrated management tools to aid in ensuring regional consistency. All regional offices are under the direction of Deputy Secretary for Field Operations and the district mining offices report to the Deputy Secretary for Minerals Management. These two offices offer oversight, guidance and facilitate regional interaction to ensure that each individual office is performing inspections, responding to emergencies, taking enforcement actions and assessing violations in a uniform manner.

Staff training is essential to create a cohesive permitting and enforcement program, but unfortunately staff training has been severely cut in most of the department's programs that are supported by the General Fund due to budget constraints.

Chairman Erickson and members of the committee: I thank you for your time and attention. I'd be happy to answer any questions you have at this time.