

Pennsylvania Municipal Authorities Association

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TESTIMONY FOR SENATE MAJORITY POLICY COMMITTEE

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The Pennsylvania Municipal Authorities Association (PMAA) represents 720 municipal authorities statewide providing water, sewer, solid waste and other services to over 6 million Pennsylvania citizens. PMAA also represents over 500 associate members that include: engineering and consulting firms, law firms, supply and equipment vendors, and financial advisors. Both our authority and associate members have regular interaction with DEP. While most of our members enjoy good relationships with department staff they often face an uncertain permitting or regulatory process. Requests for additional information, indecision, review delays, and inconsistent interpretations overshadow what should be a smoother, more efficient permitting process.

On behalf of PMAA, we would like to offer this committee our concerns and suggestions for improvement. It is our hope that the legislature, DEP and the regulated community can work together to make the process better for all involved parties.

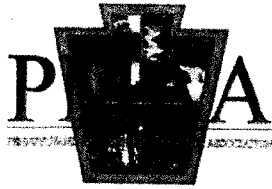
The list below is a summary of concerns expressed by PMAA members:

1. **Length of time for permit review and approval.**
2. **Inconsistency among regional offices on interpretation of law and regulations.**
3. **Lack of centralized coordination and direction on permit issues, interpretations, etc.**
4. **Lack of any comprehensive internal or external training program for permit writers, inspectors.**
5. **Lack of coordination between programs on permit and policy issues.**
6. **Lack of skilled staff.**
7. **Reluctance to challenge DEP delays.**
8. **Money Back Guarantee system.**

Likewise, suggestions for improvements from our members are highlighted below:

1. **Adequate qualified and skilled staff.**
2. **Training.**
3. **Recommendations of Expert Panel.**
4. **Clearly articulated written guidance and policy.**
5. **Funding from DEP fee increases (if enacted) remains with the program implementing them.**
6. **Clearly articulated timeframes for permit reviews.**

Each of the above points, both concerns and suggestions, are highlighted in greater detail on the following pages. Thank you for the opportunity to testify today.



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DEP Permitting Issues

1. Length of time for permit review and approval.

The issuance of a number of DEP permits experience delays in the review and approval process. These include: stormwater, erosion and sediment control, Act 537 sewer planning and permits, NPDES for sewer plants, water supply, and others. These delays in review and approval impact local governments, engineers, builders and developers, and the public. It also can add to environmental and public health concerns if approvals are not timely.

2. Inconsistency among regional offices on interpretation of law and regulations.

This is an age-old problem for the department and many efforts have been expended over the years to address it. Unfortunately, it still continues to be a major issue. It is particularly frustrating to engineering firms designing similar projects in different regions and facing different requirements and interpretations from DEP staff.

3. Lack of centralized coordination and direction on permit issues, interpretations, etc.

Central office policy specialists try to address issues through guidelines and uniform and consistent directives on how to handle certain situations in the review and permitting process. These directives are not always followed by regional staff, who argue (sometimes rightfully so) that they have not been fully involved in the process of developing new guidance that they must implement.

Currently, central office does not have the staffing power or adequate skilled expertise to develop guidance on all the issues facing permit writers. Finally, regional offices have been known to develop their own "in-house" guidance policies with no input from central office staff or other regional offices. This adds to the consistency problem for DEP.

4. Lack of any comprehensive internal or external training program for permit writers, inspectors.

Due to budget constraints, DEP has curtailed any significant internal training for newly hired, newly promoted, or transferred employees. This is particularly evident in areas where technical knowledge and expertise are necessary to review and approve permits, and employees lack the necessary skills, background, or experience to effectively achieve this. It is also apparent that simple communication and outreach skills to the public and regulated community are not honed through any training process.

5. Lack of coordination between programs on permit and policy issues.

Many permits cut across different program areas in DEP. The interaction between DEP bureaus is often minimal. This prolongs indecisiveness in both central and regional offices and increases delays in reviews and approval. The necessity for staff from different programs to sit down on a regular basis and coordinate issues and concerns, and develop effective guidance is critical.

6. Lack of skilled staff.

DEP has not been able to attract the skilled and experienced staff necessary to run their programs. Competition with private industry has exacerbated this. Inability to hire staff due to budget cuts, lack of a talented hiring pool, inability to backfill retired or furloughed employees, difficulty in changing

job descriptions or transferring staff, and poor morale all face DEP management as they try to establish a competent and motivated workforce.

7. Reluctance to challenge DEP delays.

Many permit applicants are reluctant to challenge DEP permit writers or "rock the boat" for fear that current (or later) permit applications will be unduly scrutinized and further delayed.

8. Money Back Guarantee system.

This approach was supposed to insure a short completeness review, followed by a set regular review time for certain permits. Initiated in the Ridge years, this program helped to keep reviews within stated timeframes by identifying major or minor omissions upfront during the completeness review. It is apparent this program no longer provides the same results as in earlier years.

Often the review and approval system is "gamed" by the reviewers. A cursory completeness review does not pick up any shortcomings, yet the applicant is informed very late in the process that a certain item is missing. An extension is offered, essentially re-setting the clock, or a denial is issued (starting the whole process over). This practice allows the reviewers to stagger their workload but wreaks havoc with those on the outside trying to establish a schedule for construction and implementation. Permit delays can also add to excess material and equipment costs, and higher financing rates.

Suggested Improvements

1. Ensure there is adequate qualified and skilled staff.
2. Ensure that staff are initially, and periodically thereafter, trained on technical, scientific and emerging technologies. Training should also address communication, writing and organizational topics.
3. Convene an expert panel of members of the regulated community, engineers, attorneys, and scientists to discuss and present options for streamlining and expediting the DEP permit review process, which should include:
 - a) the potential for contracting out certain permit reviews to accredited and qualified third party entities.
 - b) enhancing the application and permitting process through the use of electronic and computer media.
 - c) conducting internal DEP training sessions on the streamlining and processing of permits.
 - d) concentrating more on major environmental permits and inspections.
 - e) concentrating on end-of-pipe discharges and not design and operations of facilities.
 - f) more reliance on professional qualifications, such as an Engineer's Seal on a plan, with penalties such as license suspension if plan is faulty or fraudulent.
 - g) random periodic review of select DEP permits by the Citizens Advisory Council, or even a subcommittee of the standing Environmental Committees, checking for timeliness, review capacity, staff expertise and conditions on approvals.
4. Have clearly articulated written guidance and policy for permit reviewers to follow that are also available to the regulated community and public.

5. Ensure that all new funding from DEP fee increases, if enacted, (now proposed through regulation, not legislation) remain with the program for staff hiring, staff development, upgrades to computer systems, and other tools to enhance inspection, policy and permitting functions. These fees should not be transferred to other DEP programs, nor to the general fund of the Commonwealth.
6. Clearly articulate the timeframes for permit reviews to the regulated community with a checklist of necessary documents and information. Set up a procedure in the DEP Office of Policy to review inquiries or complaints from permit applicants who feel the process has been elongated or derailed by a permit writer. This office could likewise receive and review similar inquiries related to inspections. That information, and how concerns were addressed, should be provided on a monthly basis to DEP management and annually to the appropriate House and Senate oversight committees.