



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 10 2019

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Eliminating the Backlog of EPA-Issued NPDES Permits

FROM: Andrew Sawyers, Director
Office of Wastewater Management

A handwritten signature in black ink, appearing to read "Andrew Sawyers", is written over the "FROM:" line and extends to the right.

TO: Water Division Directors
Regions 1-10

I am pleased to provide you with the NPDES Backlog Elimination Strategy, and the accompanying FY2020 Implementation Plan, for achieving and sustaining the timely issuance of National Pollutant Discharge Elimination System (NPDES) permits.

Issuing NPDES permits in a timely manner has been a program challenge for many years. In 1998, in response to a recommendation by the Office of the Inspector General, the EPA recognized the NPDES backlog as a material weakness under the Federal Managers Financial Integrity Act (FMFIA). Since then, EPA and state efforts to reduce the permit backlog have met with varying degrees of success. Improving the timing for issuance and reissuance of NPDES permits by the EPA will provide greater certainty for the business community, ensure that permits reflect the most up-to-date regulatory requirements and scientific information, and foster continued progress in water quality improvement.

Current efforts to address the backlog of EPA-issued NPDES permits are guided by three major goals:

- The EPA's FY 2018-2022 Strategic Plan calls for streamlining and modernizing the EPA programs, including issuing permits more quickly. Under the Strategic Plan, by September 30, 2022, the EPA must make all permitting-related decisions for new permits within six months (Goal 3, Objective 3.4, Strategic Measure 22).
- The Agency Priority Goal (APG) for accelerated permitting decisions provides that by September 30, 2021, the EPA will reduce the backlog for existing permits by 50 percent from baseline (25 percent per year), and the backlog for new permit decisions to zero (APG-6).
- Assistant Deputy Administrator Henry Darwin established a goal of eliminating the backlog of all new EPA-issued permits by December 31, 2019.

A Fresh Look at Backlog Elimination

The EPA is applying a Lean management approach to reduce the backlog of EPA-issued permits across all Agency programs. This Strategy provides a focused approach to elimination of the backlog of EPA-issued NPDES permits specifically. It includes actions for the tracking and reporting of permit issuance information, but it also includes longer-term actions that Headquarters (HQ) and Regions must take to address the root causes of permitting delays.

Under a separate initiative, the EPA is also developing a national policy and program-specific implementation frameworks for the oversight of state permitting programs. The NPDES framework being developed under the oversight policy will include measures and processes addressing the backlog of state as well as EPA permits. Many of the principles applied, tools developed, and lessons learned from this EPA Backlog Elimination Strategy will be of broad utility to state NPDES authorities as well.

Since June 15, 2018, EPA Regions have been responding to direction that their backlogs for new permits be eliminated. Regions have already succeeded in reducing their backlog of new EPA-issued permits from 106 in March 2018 to 26 in November 2019. Regions have shown what can be accomplished in a few short months in meeting backlog elimination goals when enough urgency is applied, and resources are marshalled or reallocated.

However, to be sustainable, any effort must address the root causes rather than just the symptoms of the backlog challenge. The Water Permits Division (WPD) and Regions agree that it is vital to modernize the program's infrastructure and make long-term investments to serve the strategic needs of the program, with benefits that will redound beyond simply reducing backlog. This will necessitate a multi-year effort requiring a commitment from each Region.

NPDES program managers from Headquarters and Regions met in March 2019 for a focused discussion of both the short-term and root causes of backlog. Each Region discussed its backlog elimination strategy and an optimal path based on the lessons from its experiences. The meeting discussions resulted in a list of Region-specific permit processing commitments and potential action items that would enable short- and long-term progress on backlog elimination. These discussions also formed the basis of the accompanying FY2020 Implementation Plan. The WPD intends to develop annual implementation plans in partnership with the regional NPDES managers going forward.

Goals and Objectives of the Strategy

This Backlog Elimination Strategy identifies goals and objectives to eliminate the current backlog for EPA-issued NPDES permits and to keep the backlog to an absolute minimum going forward. It is accompanied by an Implementation Plan, to be updated annually, with additional information on action items for the various commitments. The Strategy and the Implementation Plan reflect detailed analysis of backlog numbers and Regional strategies, and they commit EPA HQ and Regions to a disciplined approach to addressing the short- and long-term issues affecting timely issuance of NPDES permits.

This Strategy contains four goals. The objectives and actions under each are described more fully in the accompanying FY2020 Implementation Plan.

GOAL 1: Implement and track commitments to eliminate the backlog of EPA-issued permits.

For the purposes of this Strategy, an existing individual or general permit is backlogged if it has expired and is awaiting reissuance. A new individual permit is backlogged if it is awaiting first issuance and more than 180 days have passed since the application was received. Under Goal 1, the WPD will work with Regions to compile and submit backlog information and backlog reduction commitments for subsequent years.

GOAL 2: Marshal the knowledge, tools, and capability of HQ and Regions to foster a culture of mutual aid on behalf of timely permit issuance.

Mutual aid between Regions, including enhanced information sharing, can speed resolution of technical permitting issues and permit issuance. Under this goal, the WPD will seek to address factors in the permit issuance process that are commonly agreed to affect timeliness, such as resources and consultations with the services and other programs. WPD will also enhance the use of information-sharing and collaboration tools, including a SharePoint site and a permit writers' clearinghouse.

GOAL 3: Address strategic issues to reduce the EPA workload and permit processing timelines.

It is essential to develop a continually evolving "One EPA" culture of permit issuance that recognizes other ways Regions and the WPD can support each other by contributing the time and expertise of their staff. This will become more important as Regions address the challenges of complex permits, which historically have taken more time to issue. The framework describes how the WPD and Regions will use NPDES managers' calls and face-to-face meetings to explore efficiencies such as collaboration on topics of common interest and sharing of permit writer expertise across Regions.

GOAL 4: Develop and support the recruitment and retention of a well-trained and expertly skilled workforce for the long-term performance of the NPDES program nationally.

Training is an important strategic investment area. The need for training is growing as the program grows more complex and as FTE and the pool of expertise are shrinking. Technology advances also now provide alternatives to expensive in-person training that EPA can utilize to address this growing need.

The NPDES program is highly technical and specialized, necessitating the development and retention of knowledgeable staff. EPA loses specialized skill sets when experienced staff leave, and it is not practical for each Region to develop staff expertise in each NPDES program area. Since the NPDES program is also evolving as the result of legislation, litigation, Administration priorities, and development of new tools and methods, new skills are also needed to move it forward. The EPA's issuance of timely and high-quality permits will be directly affected by Regions' abilities to maintain institutional knowledge while developing new skillsets to meet the needs of the program.

In closing

This Strategy and the FY2020 Implementation Plan focus on short- and long-term solutions that are within the purview of the WPD and Regional NPDES managers to address. We recognize, however, that external developments such as litigation, requests for state program authorizations, and legislation affecting permit timelines will also affect the timing and processes for permit issuance, and that HQ and Regions need to be poised to respond strategically to such developments.

I appreciate the dedication Regions have shown in reducing their permit backlogs and developing this strategy. Please call me or have your staff call Kevin Weiss at (202) 564-0742 if you would like to discuss it further.

Attachment: FY20 Implementation Plan for Eliminating the Backlog of EPA-Issued
NPDES Permits

CC: NPDES Program Managers, Regions 1-10

