

# PA Environment Digest

## An Update On Environmental Issues In PA

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### **DEP Publishes Final No Strike Permit Decision Guarantee Policy**

On November 3 the Department of Environmental Protection [published a notice](#) in the PA Bulletin announcing the availability of final guidance implementing Gov. Corbett's [Executive Order 2012-11](#) creating the DEP [Permit Review Process and Permit Decision Guarantee Program](#).

Because of DEP's emergency response work related to Hurricane Sandy, the final policies will not be implemented until November 14.

DEP finalized the policies after reviewing the hundreds of comments submitted during the public comment period on [the draft decision guarantee](#) and [permit coordination](#) policies, which ran from September 1 to October 1.

The final policies were also accompanied by comment-and-response documents for each policy.

"These policies deliver on Gov. Corbett's promise to reform how state government works," DEP Secretary Mike Krancer said. "We are making clear to those who seek permits that we need to see quality applications. That is key. Then, we will do our part to deliver efficient and complete reviews in a predictable time frame."

The policies implement Gov. Corbett's July 24 Executive Order, outlining the process DEP will use to guarantee an efficient timeframe in which the agency will make a decision on complete applications for 278 types of permits and authorizations.

In reviewing its permitting procedures, DEP found that 40 percent of permit applications submitted to the agency were deficient, meaning they lacked the full information needed for DEP's permit reviewers to make a sound decision.

"The result of this was a waste of time and resources for all involved," Krancer said.

Under the new process, if a permit lacks necessary information, DEP may deny the application. If a complete permit application is technically deficient, requiring it to be returned twice, DEP may deny it. Agency staff will point to specific statutes or regulations when citing deficiencies in the application.

**Permit Review Priorities**

The final policy, like the draft, sets priorities for reviewing applications by DEP and would eliminate any “first-in-first-out” review policies unless required by law. The proposed priorities include--

1. Applications for projects necessary for the protection of public health, safety and the environment;
2. Applications for projects necessary for economic development;
3. Applications within Permit Decision Guarantee;
4. Those applications that have been excluded from the Permit Decision Guarantee but are necessary for economic development projects that create jobs and enhance communities; and
5. Lastly, any remaining applications will be reviewed on a “first-in-first-out” basis.

#### **No Strikes Rule**

The final policy, like the draft, says that only permit applications determined to be complete and without technical deficiencies will be covered by the permit decision guarantee. If technical deficiencies are found in the permit application during the technical review, the deficiencies will void the permit decision guarantee.

Applicants will have one opportunity to correct the deficiencies DEP identifies in a deficiency letter and a deadline is established for responding to the deficiency letter. If the applicant’s response corrects the deficiencies, the application will then be subject to what DEP calls an Elevated Review Process where DEP sets a new deadline for decisions.

The final Permit Review Process and Permit Decision Guarantee strongly encourages pre-application conferences between DEP staff and applicants to discuss expectations and obligations. The final policy also provides guidance to DEP managers on how to prioritize workload for the review of permits.

"This is not about rushing permits through," Krancer said. "It is about efficiently using our time and our applicants' time and resources, and it is about predictable time frames.

"Every complete and technically adequate application we receive will be reviewed thoroughly," he said. "DEP will issue permits that meet all legal requirements that are in place which protect the environment and public health and safety."

The companion Permit Coordination policy outlines how staff should coordinate projects that require multiple permits. During the first year of implementation, DEP staff will review the policies' effectiveness quarterly and propose necessary adjustments.

In addition to using a paperless "completeness notification process" through eFACTS on the Web, a tool to track permits and sites across the state, the agency is developing electronic permitting tools to further improve the process.

#### **Webinars**

In the coming weeks and months, DEP will host web-based information sessions for both eFACTS on the Web and its many program areas, such as air quality and mining. The program-specific webinars will discuss how each program is implementing the new permitting process.

To register for the webinars and review the final policies and executive order, visit DEP’s [Permit Decision Guarantee](#) webpage.