



Secretary of State Oregon Audits Division



Department of Environmental Quality
**Recommendation Follow-up Report:
DEQ Should Improve the Air Quality Permitting
Process to Reduce Its Backlog and Better Safeguard
Oregon's Air**

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Secretary of State Report Highlights

May 2019

Department of Environmental Quality Recommendation Follow-up Report:

DEQ Should Improve the Air Quality Permitting Process to Reduce Its Backlog and Better Safeguard Oregon's Air

Recommendation Follow-up Results

At the time of the original audit, the Department of Environmental Quality (DEQ) agreed with all 10 of the recommendations we made. Our follow-up work shows DEQ has fully implemented five of those recommendations and taken significant steps to begin implementing the remaining five recommendations.

Highlights from the Original Audit

The Secretary of State's Audits Division found DEQ has a significant backlog in air quality permit renewals. The agency should evaluate staffing and workloads among air quality permit writers and provide better guidance to both staff and businesses to help reduce the backlog.

Background

We reviewed air quality permitting at DEQ. Air quality permits regulate the types and amounts of air pollution businesses are allowed to emit, based on federal pollution limits set by the Clean Air Act and state limits established in state laws and DEQ rules.

Purpose

The purpose of the original audit was to determine how DEQ could improve its air quality permitting process to better safeguard Oregon's air quality. The purpose of this follow-up report is to provide a status on the auditee's efforts to implement the audit recommendations.

Key Findings from the Original Audit

1. 43% (106 out of 246) of DEQ's largest and most complex federal and state air quality permit renewals were overdue for renewal. Additionally, more than 40% of the most complex permits issued from 2007 to 2017 exceeded timeframes established by DEQ or the Clean Air Act, some by several years.
2. DEQ struggled to issue timely permits and renewals due to a variety of factors, including competing priorities, vacancies, and position cuts that have created unmanageable workloads. Other factors included inconsistent support and guidance for staff; a lack of clear, accessible guidance for applicants; and increased time for the public engagement process.
3. Untimely permits, combined with a current backlog of inspections, endanger the state's air quality and the health of Oregonians. For example, when DEQ does not issue permit renewals on time, businesses may not provide DEQ with data showing they are complying with new or updated rules.

Introduction

The purpose of this report is to follow up on the recommendations we made to the Department of Environmental Quality (DEQ) as included in audit report 2018-01, “Department of Environmental Quality Should Improve the Air Quality Permitting Process to Reduce Its Backlog and Better Safeguard Oregon’s Air.”

The Oregon Audits Division conducts follow-up procedures for each of our performance audits. This process helps assess the impact of our audit work, promotes accountability and transparency within state government, and ensures audit recommendations are implemented and related risks mitigated to the greatest extent possible.

We use a standard set of procedures for these engagements that includes gathering evidence and assessing the efforts of the auditee to implement our recommendations; concluding and reporting on those efforts; and employing a rigorous quality assurance process to ensure our conclusions are accurate. We determine implementation status based on an assessment of evidence rather than self-reported information. This follow-up is not an audit, but a status check on the agency’s actions.

To ensure the timeliness of this effort, the division asks all auditees to provide a timeframe for implementing the recommendations in our audit reports. We use this timeframe to schedule and execute our follow-up procedures.

Our follow-up procedures evaluate the status of each recommendation and assign it one of the following categories:

- **Implemented/Resolved:** The auditee has fully implemented the recommendation or otherwise taken the appropriate action to resolve the issue identified by the audit.
- **Partially implemented:** The auditee has begun taking action on the recommendation, but has not fully implemented it. In some cases, this simply means the auditee needs more time to fully implement the recommendation. However, it may also mean the auditee believes it has taken sufficient action to address the issue and does not plan to pursue further action on that recommendation.
- **Not implemented:** The auditee has taken no action on the recommendation. This could mean the auditee still plans to implement the recommendation and simply has not yet taken action; it could also mean the auditee has declined to take the action identified by the recommendation and may pursue other action, or the auditee disagreed with the initial recommendation.

The status of each recommendation and full results of our follow-up work are detailed in the following pages.

Recommendation Implementation Status

Recommendation	Auditee Action	Status
<p>1. Conduct a Lean process improvement initiative to identify areas in need of improvement, as suggested by the EPA in 2016.</p> <p>a. As a first step, improve tracking of the permit backlog.</p>	<p>In May and June 2018, DEQ conducted a workload analysis and a week-long process improvement effort. From that effort, the agency identified projects to help improve the backlog and developed a plan to guide implementation of those projects, prioritizing Title V¹ permitting improvement projects. DEQ has also developed a Statewide Air Quality plan to better track the permit backlog.</p>	<p>Implemented/ Resolved</p>
<p>2. Centralize and improve inspection tracking to ensure compliance inspections are completed timely.</p>	<p>DEQ is in the process of building a comprehensive database system, and the agency reports that incorporating inspection tracking within this database is a top priority. According to DEQ management, the agency will finalize the system's scope and sequencing of development in spring 2019. Until that system is up and running, each region is tracking its compliance inspections in a shared spreadsheet with separate sections for each region.</p>	<p>Partially implemented</p>
<p>3. Implement the Basic Air Contaminant Discharge Permit for auto body repair facilities in the Northwest Region.</p>	<p>DEQ has issued permits to auto body repair facilities in the Northwest Region that were identified by permitting staff as meeting the criteria for a Basic Air Contaminant Discharge Permit (ACDP)². From April 2018 to January 2019, the region issued 85 such permits. According to DEQ, those auto body facilities needing a Basic ACDP, but which did not respond to the agency's outreach efforts, were referred to DEQ's Office of Compliance and Enforcement for enforcement action.</p>	<p>Implemented/ Resolved</p>

¹ Title V permits came about due to the 1990 Clean Air Act Amendments and are issued to major industrial sources of air pollution.
² Air Contaminant Discharge Permits (ACDPs) are issued based on state regulations for sources of air pollution that fall below Title V thresholds. ACDPs range from Basic, which are the simplest, to Standard, which are the most complex and restrictive.

4. Determine staffing levels needed to provide support to permit writers to issue air quality permits and complete inspections within established timeframes, based on current and projected workloads.

a. Based on the results of the analysis, work with the Legislature to identify potential sources of funding for additional staff, to better align workload demands with appropriate staffing levels.

As part of its process improvement effort, DEQ reviewed statewide Air Quality Division staffing levels for permit issuance, inspections, and other ancillary air quality duties, such as complaint response. The agency also conducted a workload analysis that identified the need for an additional five full time equivalent (FTE) positions in order to complete inspections within established timeframes.

DEQ created Policy Option Package 116 for the 2019 legislative session. The original request asked for \$158,210 of state General Fund dollars and \$903,575 of ACDP permit fee increases to fund five additional FTE positions. However, the Governor's Recommended Budget removed the General Fund request, leaving \$903,575 for 4.32 FTE positions funded solely through an increase in ACDP permit fees.

**Implemented/
Resolved**

5. Fill vacancies in as timely a manner as possible given the highly technical nature of permitting positions and the potential difficulty finding qualified applicants.

DEQ has filled all seven open positions noted in the original audit report, as well as four additional positions authorized by the Legislature in 2018 to support air quality permitting.

**Implemented/
Resolved**

6. Work with the Chief Human Resources Office within the Department of Administrative Services to begin the succession planning process.

The Department of Administrative Services (DAS) has released statewide directives for succession planning since the original audit report was issued. DEQ hired a Training and Development Specialist in December 2018 to help facilitate succession planning using DAS's guidance. DEQ has also begun identifying and documenting key air quality processes and utilizing staff with specific expertise to cross-train other staff across the regions. However, these efforts have not yet begun in other parts of the agency.

**Partially
implemented**

7. The DEQ headquarters team should provide consistent guidance and support for regional permit writing staff, including:

- a. Current and ongoing guidance on new rule interpretation and implementation;
- b. Checklists to help determine application completeness;
- c. Documentation of up-to-date permit writing policies, procedures, and processes stored in a centralized and accessible location;
- d. Update the permit writers' manual and store it in a centralized and accessible location; and
- e. Update relevant permitting forms and templates and store in a centralized and accessible location.

DEQ has started to provide more consistent guidance and support to its permit writing staff, but this will be an ongoing effort. The agency is focusing first on Title V permits, often its more complex permits.

DEQ created a shared Permit Writer's Resource Center as a central location for existing permit writing policies, procedures, and processes. The agency also reports that its Air quality staff are updating the permit writers' manual and streamlining Title V permit forms to improve consistency and usability for its permit writers and permit holders. Air Quality staff are also developing checklists for Title V renewal applications and templates to help ensure permit applicants submit technically complete applications.

These efforts are incomplete and have not been implemented for ACDP permits. DEQ indicated that it is piloting the changes with Title V permits and will then update and roll them out to ACDP permits.

Partially implemented

8. Improve pre-application guidance for applicants, including development of such documents as:

- a. permitting process overview;
- b. completeness determination checklist for applicants; and
- c. guidance written in plain language.

DEQ has created a Title V permit renewal pre-application process that includes materials to help permit applicants submit complete and timely applications. The agency also offers Title V applicants a voluntary pre-application meeting to help identify the necessary forms an applicant needs to submit and to answer any questions.

DEQ still needs to improve its pre-application guidance for ACDP permits, and the agency has yet to create an overview of the permit process for all air quality permit applicants.

Partially implemented

9. Improve the Title V and ACDP permitting webpages to enhance usability for permit applicants, especially as it relates to content, navigation, and organization.

DEQ reports that it has performed a content audit of the permit website to remove outdated information and identify gaps in the resources about the permitting process available on the website. The agency indicates that it also reviewed the permitting websites of over 25 other states and it has interviewed staff from one of those states. DEQ created a new website focused on providing technical assistance and resources to applicants, with a staff person dedicated to monitoring, evaluating, and updating the website going forward.

**Implemented/
Resolved**

10. Provide clear information to the public on the purpose of public comment and participation in the issuance phase of the permitting process, including what DEQ can and cannot do as a result.

DEQ's Air Quality division assessed the public hearing process and created an engagement plan to improve the agency's website and public notice document. The division also created presentation templates to use during public meetings that explain some of what DEQ can and cannot do based on public comments received. Moreover, Air Quality staff are working with the EPA on identifying best practices for communicating with the public and permit holders. The agency's next steps include finalizing public comment resources for the public and adding a public engagement section to the Air Quality permitting website.

**Partially
implemented**

Conclusion

Overall, DEQ has taken significant steps to either fully implement or begin implementing all 10 of the audit's recommendations.

The five recommendations that have been fully implemented include many important steps, such as conducting a process improvement effort to help identify needed improvements in the permitting process, improved tracking of the permit backlog, implementing the Basic Air Contaminant Discharge Permit for auto body facilities in the Northwest Region, improving application guidance for permit applicants, conducting a permit writer workload analysis, and requesting additional permit writer positions in the agency's budget submission, to better align workload demands with appropriate staffing levels.

For the five recommendations that have not been fully implemented, the agency has taken action to begin implementation. This includes:

- creating a temporary database to improve compliance inspection tracking;
- hiring a training and development specialist to begin working on succession planning;
- identifying and documenting key processes in the Air Quality division and cross-training staff, to help ensure specialized knowledge is not lost when staff leave or retire;
- updating permit writer manuals, developing Title V permit application checklists, and maintaining a central repository for permit writer guidance materials; and
- creating pre-application guidance and materials for Title V permit applicants and offering voluntary pre-application meetings with a permit writer.

Work still remaining to be done includes:

- developing a permanent data system that consolidates the tracking of compliance inspections across all regions;
- implementing DAS succession planning directives;
- developing permit application checklists and templates for ACDP permits and maintaining those in the central repository for permit writer guidance materials;
- developing an overview of the permitting process for all Title V and ACDP permits to help guide permit applicants; and
- developing pre-application guidance and materials for ACDP permit applicants.

Though work remains to be done on these recommendations, the agency has at least started the process of implementing each of them.

We sincerely appreciate the courtesies and cooperation extended by officials and employees of DEQ during the course of this follow-up work.



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About the Secretary of State Audits Division

The Oregon Constitution provides that the Secretary of State shall be, by virtue of the office, Auditor of Public Accounts. The Audits Division performs this duty. The division reports to the elected Secretary of State and is independent of other agencies within the Executive, Legislative, and Judicial branches of Oregon government. The division has constitutional authority to audit all state officers, agencies, boards and commissions as well as administer municipal audit law.

This report is intended to promote the best possible management of public resources.
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