



**pennsylvania**

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Mining Programs

# Professional Licensure and Permit Reviews

## Aggregate Advisory Board

February 18, 2016

# Professional Licensure and Permit Review

## Purpose:

Discuss the roles of the applicant's consultant and Department with regards to PE- and PG-licensed work in the context of shortening permit review times.

# ▶ Department responsibilities

Department must conduct certain tasks under the regs:

- 77.122-125 Collects, evaluates public comments, holds hearing
- 77.126-127 Makes written findings
- 77.401 “waives”, “determines”
- 77.403 “evaluates impacts”

# ▶ Department responsibilities

DEP is responsible for permitting decisions

Written findings (77.126)

- Criteria for permit approval/denial
- Legal obligation that ensures the project is in compliance with laws and regulations
- No presumptive evidence of pollution

# ▶ Consultant responsibility

Present complete and understandable set of information for Department to make decision

- Gather and compile data and plans
- Address consequences of proposed activities (water loss replacement, contingency plans, anticipated problems, etc.)

# Sealed Submittals

Difference between practice of engineering and geology:

- PE – Standards in design; done according to accepted specifications, best practices
- PG – Data collection, interpretation, prediction

Preparation by licensed individuals is required by law.

# ▶ Sealed Submittals

## Example – Groundwater hydrology

- Critical piece of permit review
- Complicated, open for interpretation
- Risk of pollution, water loss, hydrologic balance impacts
- Financial interests at stake
- Grounds for appeal

# ▶ Permit review is complex

Applicant/consultant is making a claim regarding prediction of pollution.

- Interpretation is involved
- Review for errors, professional judgment needed

DEP uses additional information it deems relevant

- Including assessing info that disputes the claim/prediction
- Comments and input by others must all be fairly considered (citizens, municipalities, other agencies, other consultants)



# ▶ Permit review is complex

More is considered by DEP than information presented/sealed

- Some data and resources are contained only within the Department
- May be confidential
- Historic and current complaint investigations
- Institutional and historical knowledge from other staff

# Conflicts of Interest

- Ethics act and disclosure of interests
- Bias (conflicts may or may not be apparent)
- Employment by mining companies
- Defending the work, if permit is appealed

Conclusion: It is not feasible to conclude the parts of applications can receive auto-approval based on preparation by licensed PE/PG.

# ▶ Streamlining options

- Pre application meetings
  - Fewer, shorter correction letters, no surprises
- Formulation of suitable GPs
- Data submittal options (in spreadsheets)
- Standard operating procedures by DEP
- Agency preapprovals
  - Zoning, public concerns, water loss potential, protected species, historical issues

# ▶ Streamlining options

Elements that might be tailored to auto-approval – already have standards that meet regulations:

- Erosion and sedimentation plans
- General Permits (standardized permits)

*Still have liability issues*



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