

DEQ Permit Program Informational Item Presentation – House E&E (4/21/2021)

Follow-up Response to Questions from Representative Owens

Q: *The 100-J General permit application for cooling water and heat pumps was discontinued in 2001. According to DEQ's issuance plan, you're planning on having that back open by Fall 2022. Why was it stopped in 2001, and why is it being brought back?*

DEQ Response: NPDES permits issued by DEQ (under delegated authority from EPA) have a 5-year issuance lifespan at which point they need to be renewed. In the absence of a renewed/active permit, the permit is administratively continued. This means permittees are still covered under the old permit and may continue to operate, however they cannot undergo significant facility/operational changes. When a General Permit has become administratively continued, no new applicants may receive coverage under that permit until it has been renewed. In those instances, a new facility would need to apply for coverage under an individual-NPDES permit.

Unless DEQ has reason to believe that an administratively continued General Permit is no longer needed in the state, it is the Department's intention to renew the permit as soon as possible. DEQ recently developed a [General Permit 5-Year Issuance Plan](#) to align with its NPDES Individual Annual Issuance Plan and 5-Year Issuance Plan. These plans are intended to prioritize DEQ efforts towards eliminating the backlog of permits that are administratively continued.

2001 marked five years since the last time the 100-J permit was renewed and it has been administratively continued (rather than "discontinued") since that time. The 100-J permit has been identified on the General Permit Issuance workplan and is anticipated to be renewed in the Fall of 2021 (FFY 2022) along with the 200-J and 500-J. These permits will be evaluated and renewed in coordination with one another because of a commonality around potential implications for temperature.

Q: *Do you expect the 100-J permit to drastically change from the 2001 expired general permit?*

- *How long does it typically take to revise an expired permit?*
- *If there is a long line of permits pending at DEQ, which get reviewed first? How does DEQ prioritize its review process?*

DEQ Response: DEQ does not foresee any drastic changes to the 100J at this time, but until our staff complete a more thorough review and analysis of the permit for renewal and related circumstances, we cannot say with certainty the scope or magnitude of any potential changes.

Time and resources necessary to renew an administratively continued permit can vary depending upon the permit complexity, degree of interest in the permit and types of public comments we receive. Part of this analysis will also be an evaluation of the impact of this permit in areas of the state with existing temperature TMDLs. That said, recent General Permit renewals by DEQ have taken, on average, about six months from start to finish. Those with significant public interest component tend to take longer.

Because existing permittees are allowed to continue operations under an administratively continued permit, we tend to prioritize new permit applications over the renewal of old/expired permits. With

regards to the backlog of administratively continued permits in need of renewal, the program has committed to developing and maintaining 1 year and 5 year issuance plan schedules where priority is based on multiple factors. For renewals of individual permits, factors may include:

- Permits that will expire in the federal fiscal year
- Results of the 2017/2018 readiness review
- Geographic location
- DEQ resources
- Local priorities

Additional prioritization factors specific to General Permit renewals may include:

- Litigation settlement agreements
- Permits frequently requested by small operators

***Q:** It's my understanding that the agency has receipts authority to potentially hire out a third party to help conduct a lot of this work at the expense of the applicant. If there is such a backlog, why isn't the agency utilizing receipts authority?*

DEQ Response: The DEQ water quality program has existing authority - under ORS 468.073 - to work with third party contractors. It establishes a process by which a contractor may work for DEQ, either at DEQ's request or following an agreement between DEQ and an applicant. The agency does not typically utilize the first option, except for specifically targeted purposes (see PGEnvironmental , 2018 below), since it would pull vital program resources and staff time from agency work. Instead, DEQ has been addressing the backlog through the systemic program improvements, which we described in our presentation. In the latter case, either party can open the discussion and it is voluntary for both parties to enter into agreement. The applicant enters into a memorandum of understanding with DEQ to reimburse the cost of hiring the contractor. Despite the availability of this option, DEQ has not received interest from permittees or applicants for multiple years indicating an interest in this process for NPDES permits.

***Q:** Can you further explain the Receipts Authority process?*

- *How often is this utilized?*
- *Who has used this and how long does it normally take?*

DEQ Response: DEQ has used receipts authority on our own initiative in recent years to solicit a review with recommendations for permitting process improvements ([PGEnvironmental, 2018](#)). It has also been used under some limited circumstances in the past where a permittee or stakeholders came to us to initiate the process (e.g. development of a turbidity standard).