



Tennessee Department of Environment and Conservation
Fiscal Year 2021
Environmental Permitting Report

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EXECUTIVE SUMMARY

The Tennessee Department of Environment & Conservation (TDEC) is committed to protecting and improving the quality of Tennessee's air, land, and water. Our environmental programs and initiatives protect human health and the environment, support economic development, promote job creation, enhance quality of life through education of citizens and the regulated community and conservation of our natural resources, and ensure effective implementation of state and federally delegated environmental programs.

Environmental permitting is an important component of TDEC's mission. Our ability to issue environmental permits effectively and efficiently is critical to:

- Protecting Tennessee's natural resources;
- Preserving our quality of life;
- Making Tennessee an attractive place to work, live and play;
- Protecting our environment and the success of our state's business and industry sectors;
- Making Tennessee the best state in the southeast for high quality jobs.

Tennessee environmental statutes and rules require TDEC to make permit completeness decision and final permit decisions within specific time limits. TDEC defines a permit as any permit, license, registration, certification and/or accreditation application subject to the requirements for permitting in Tennessee Code Annotated Title 4, Chapter 3, Part 5.

Tennessee Code Annotated section 4-3-506 (see Appendix 1) requires TDEC to provide the Governor and General Assembly with environmental permitting reports twice per fiscal year. The Semiannual Environmental Permit Reporting period is from July 1st to December 31st of each Fiscal Year. The Annual Environmental Permitting Reporting period is from July 1st through June 30th of each Fiscal Year.

In FY 2021, TDEC received 15,581 permit applications for completeness review. TDEC determined 14,933 permit applications were complete within the regulatory time limits. Two hundred and sixty-seven (267) permit applications were not reviewed for completeness within the regulatory time limits. Three hundred and eighty-one (381) permit applications are currently under review for which the regulatory review time limit for completeness review has not expired. TDEC reviewed 98.2% of permit applications for completeness within regulatory time limits. Between FY 2013 through FY 2021, TDEC received an average of 13,919 permit applications each year for completeness review. TDEC made final completeness decisions for 98.2% of the applications within the regulatory time limits over this 9-year period.

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In FY 2021, TDEC received 39,717 permit applications for final approval or denial. There are 1,559 permit applications that are under final review for which the time limit for a final permit decision has not expired. TDEC reviewed and made final permit decisions for 38,048 permit applications within the regulatory time limit. TDEC did not make final permit decisions within the regulatory time limit for 110 permit applications. TDEC reviewed and made final permit decisions for 99.7% of permit applications within regulatory time limits.

From FY 2013 through FY 2021, TDEC received an average of 37,804 permit applications each year for final approval/denial. TDEC made final permit decisions for 98.3% of all permit applications within the regulatory time limits.

Just as important as making permit decisions within specified time limits, TDEC makes final permit decisions based on science and fact. Combining efficiency with science and fact ensures protection of public health and the environment and respects the time value of money and business schedules. TDEC is committed to meeting the regulatory time limits for permit completeness review and making final permit decisions. Each division reviews its permitting processes regularly to determine if there are more effective business processes for permit review and to develop more user-friendly permit applications.

This report compares TDEC's permitting efficiency for FY2013 through FY2021. Comparing permitting efficiency results from previous years helps TDEC identify areas for permit processing improvement. When permit decision performance expectations are not met, we determine the reasons expectations were not met and evaluate changes that can be made to improve review of permit applications. This includes modifying permitting processes, shifting staff to balance workloads among our Environmental Field Offices and Central Office and implementing changes suggested by staff members. Measuring permitting performance helps emphasize to TDEC staff that each staff member is accountable for their work performance and provides TDEC with an appreciation for the efforts the regulated community must take to comply with the environmental statutes and regulations TDEC implements.

This report provides the General Assembly with a comprehensive picture of TDEC's permitting successes. We look forward to receiving comments from the General Assembly and our stakeholders regarding this report and appreciate any ideas that will improve the quality of this report and service to our customers.

INTRODUCTION

There are 13 different rules that require TDEC to make permit completeness decisions and final permit decisions within regulatory time limits. Please find below the regulatory citations that TDEC follows for permit completeness review and final permit application decisions:

Regulatory Citations for Permit Completeness Review and Permit Decisions	
Rule	Rule Number
Solid Waste Regulations	Rules 0400-11-01-.01 through -.13
Hazardous Waste Regulations	Rules 0400-12-01-.01 through -.12
Hazardous Waste Regulations	Rules 0400-12-02-.01 through -.3
Regulation of X-ray and Radioactive Materials	Rules 0400-20-05-.01 through -.165
Certification of Hydrologic Professionals	Rules 0400-40-17-.01 through -.04
Water Supply	Rules 0400-45-01-.01 through -.41
Underground Injection Control	Rules 0400-45-06-.01 through -.19
Safe Dams	Rules 0400-45-07-.01 through -.10
Subsurface Sewage Disposal	Rules 0400-48-01-.01 through -.24
Asbestos Accreditation	Rules 1200-01-20-.01 through -.08
Lead Based Paint Abatement	Rules 1200-01-18-.01 through -.06
Air Pollution Control	Rule Chapters 1200-03-01 through -37
Water Pollution Control	Rule Chapters 0400-40-01 through -16

TDEC provides tables for each Environmental Division with permitting responsibilities in this report. The tables report compliance with TDEC permit completeness decision regulatory time limits and compliance with TDEC final permit approval/denial regulatory time limits for each permit type. In addition, TDEC compared permitting data from Fiscal Years 2013 through FY 2021.

All permitting tables are listed below and presented at the end of this report:

- Table 1. Summary of TDEC – Bureau of Environment Permitting Performance – FY 2021 Permit Completeness Decisions;
- Table 2. Summary of TDEC – Bureau of Environment Permitting Performance – FY 2021 Permit Final Permit Decisions;
- Table 3. Summary of TDEC – Bureau of Environment Permitting Performance – Comparison of Fiscal Years 2013 through 2021 for Compliance with Permit Completeness Review Regulatory Time Limits; and
- Table 4. Summary of TDEC – Bureau of Environment Permitting Performance – Comparison Fiscal Years 2013 through 2021 for Compliance with Final Permit Decision Regulatory Time Limits.

DIVISION OF SOLID WASTE MANAGEMENT

The Division of Solid Waste Management (SWM) is responsible for four distinct regulatory programs implemented under the authority of different environmental statutes and regulations: (1) the TN Solid Waste Disposal Act, Tenn. Code Ann. §§ 68-211-101 to -124, and Rule Chapter 0400-11-01; (2) the TN Hazardous Waste Management Act, Tenn. Code Ann. §§ 68-212-101 to -121, and Rule Chapters 0400-12-01 and 0400-12-02; (3) the Tennessee Lead-Based Paint Abatement Certification Act of 1997, Tenn. Code Ann. §§ 68-131-401 to -406-, and Rule Chapter 1200-1-18; and (4) the Tennessee Asbestos Contractor Accreditation and Regulation Act, Tenn. Code Ann. §§ 62-41-101 to -103, and Rule Chapter 1200-1-20.

For the purposes of this report, all metrics for permit completeness decisions and final permit decisions have been combined.

SOLID WASTE PROGRAM

SWM issues permits for processing, storing, and disposal of solid waste in Tennessee. EPA Region 4 has approved Tennessee’s Solid Waste Program. TDEC issues Solid Waste permits for Solid Waste Processing facilities, Convenience Centers, Composting Operations and Demolition, and Industrial & Municipal Solid Waste Landfills. SWM also reviews and approves or denies requests to dispose of “special waste” in permitted landfills. The permits and special waste approvals issued by SWM ensure safe disposal of solid wastes. Requiring permit applicants to properly design, construct, and operate and close solid waste landfills and processing facilities ensures protection of public health and the environment. Members of the regulated community seeking either a new permit or a permit modification are required to submit permit applications and permit modifications to SWM and receive an approved permit or approval of a permit modification before beginning construction or expansion activities.

HAZARDOUS WASTE PROGRAM

The Hazardous Waste Management Program issues permits for hazardous waste processing, storage, transport, treatment, and disposal. SWM received delegation of authority from EPA Region 4 and serves as the primary regulatory agency for Tennessee entities that generate, treat, dispose, or store hazardous waste in Tennessee. Hazardous Waste Management permits help ensure that hazardous wastes are safely managed and that public health and the environment are protected.

Members of the regulated community who pursue either a new Hazardous Waste (HW) permit or modification of an existing HW permit are required to apply to SWM. Construction activities seeking a permit modification should not begin construction activities until the applicant has received approval from SWM.

TOXIC SUBSTANCES SECTION

The Lead Based Paint and Asbestos Programs, part of the Toxics Programs Section, are responsible for ensuring that companies and individual workers who repair, renovate, and/or remove Lead Based Paint and Asbestos from buildings are properly trained. Department staff members review the education, training, experience, and qualifications of the professionals and the companies who train Asbestos and Lead Based Paint workers.

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Asbestos and Lead Based Paint Training program accreditations ensure the curriculum and training provided by instructors meet the need of the persons attending training. The lessons learned from the Asbestos and Lead Based Paint training helps protect worker health and safety when followed by reducing worker exposure to asbestos and lead. SWM has agreements with EPA Region 4 to implement these programs in lieu of EPA. The purpose of the Lead Based Paint and Asbestos accreditation and certification programs is to ensure that: (1) employees of companies that remove asbestos and lead based paint from buildings are properly trained and have appropriate personal protective equipment to limit exposure to lead and asbestos; (2) lead based paint and asbestos debris removed from buildings is properly disposed; and (3) once asbestos and lead based paint removal work is completed, the building is safe for human occupation.

PERMITTING METRICS

Table 1 reports SWM's success in meeting the time limits for making permit completeness decisions in FY 2021. Table 2 reports SWM's success in meeting the time limit to make final permit application decisions for FY 2021.

SWM received 81 permit applications for completeness review in FY 2021. There are 17 permit applications under final review for which the time for a final permit completeness determination has not expired. SWM made permit completeness decisions for 64 permit applications within the regulatory time limit (100%).

SWM received 5,661 permit applications for final approval or denial in FY 2021. There are 77 permit applications under final review for which the time limit for a final permit decision has not expired. SWM reviewed and made final permit decisions for 5,584 permit applications within the regulatory time limit (100%).

In the Toxics Section, permit application completeness decisions and final permit decisions are made concurrently. This is the reason there is such a large difference between the number of permit completeness determinations reported in Table 1 and the number of final permit decisions reported in Table 2 for SWM.

Table 3 compares the efficiency of permit application completeness decisions for Fiscal Years 2013 through 2021. During those years, SWM received an average of 224 permit applications for completeness review each fiscal year. An average of 11 permit applications were under evaluation for completeness for which the regulatory time limit had not passed. During this 9-year period, SWM made permit completeness decisions for 99.7% of all permit applications (1,911 of 1,917) within regulatory time limits.

Table 4 compares the efficiency of final permit decisions for Fiscal Years 2013 through FY 2021. During this 9-year period, SWM received, on average, 5,326 permit applications per fiscal year. An average of 954 permit applications were under evaluation for approval/denial for which the regulatory time limit for had not passed. SWM made final permit decisions for 99.5% (39,178 of 39,347) of all permit applications within regulatory time limits.

DIVISION OF RADIOLOGICAL HEALTH

The Division of Radiological Health (DRH) is responsible for the X-Ray Registration and Radioactive Materials Licensing Programs. Authority for implementation of the programs is granted via: (1) the TN Radiological Health Service Act, Tenn. Code Ann. §§ 68-202-201 to -271-; and (2) Rule Chapter 0400-20-05. For the purposes of this report, all metrics for permit completeness decisions and final permit decisions are combined.

X-RAY EQUIPMENT and RADIOACTIVE MATERIALS

DRH issues licenses for equipment and devices that contain radioactive materials and to businesses that process low-level radioactive waste. The Nuclear Regulatory Commission (NRC) granted TDEC the authority to issue radioactive materials licenses to facilities in Tennessee. This transfer of authority by the NRC to DRH for Radioactive Materials licensing applies to all facilities in Tennessee except the Department of Energy facility in Oak Ridge, Nuclear Fuel Services in Erwin, and TVA Nuclear Power Plants.

TDEC issues radioactive material licenses to a wide variety of facilities/locations (e.g., hospitals, doctor’s offices, dentists, veterinarians, industries, businesses, and building contractors). The licenses and registrations issued by TDEC contain provisions that prevent the citizens of Tennessee from over exposure to ionizing radiation. The licenses and registrations require the recipients to monitor and repair equipment and devices when the devices allow the release of radiation at levels that might affect human health and the environment. Licenses for radioactive material processing ensure that the companies performing this work ship processed waste to facilities designed to accept specific levels of radioactivity.

Hospitals, doctors, dentists, veterinarians, and outpatient treatment centers commonly have X-ray devices. DRH requires registration of equipment and machines that generate X-rays. The regulation of X-ray equipment protects Tennesseans from exposure to radiation that may affect their personal health. Properly maintaining X-ray equipment ensures that the public is not over-exposed to ionizing radiation.

Members of the regulated community pursuing a new radioactive material license, modification of an existing radioactive material license or registration of equipment and devices that produce X-rays are required to submit applications to DRH for review and approval. TDEC determines if the equipment is operating and the plans for its use meet specific health and safety regulations.

PERMITTING METRICS

Table 1 reports DRH’s success in meeting the time limits for making permit completeness decisions in FY 2021. Table 2 reports DRH’s success in meeting the time limit to make final permit application decisions for FY 2021.

In FY 2021, DRH received 4,336 permit applications for completeness review. DRH made permit completeness decisions for all 4,336 permit applications within the regulatory time limit (100%).

In FY 2021, DRH received 4,336 permit applications for final approval or denial. DRH made final permit approval/denial decisions for all the permit applications within regulatory time limits (100%).

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Table 3 compares the efficiency of permit application completeness decisions for Fiscal Years 2013 through 2021. During those 9 years, DRH received an average of 4,122 permit applications for completeness review each fiscal year. DRH made permit completeness decisions for 99.99% of all permit applications (37,097 of 37,098) within regulatory time limits.

Table 4 compares the efficiency of final permit decisions for Fiscal Years 2013 through FY 2021. During this 9-year period, DRH received, on average, 4,122 permit applications per fiscal year. DRH made final permit decisions for 99.99% (37,097 of 37,098) of all permit applications within regulatory time limits.

AIR POLLUTION CONTROL

The Division of Air Pollution Control (APC) is responsible for issuing permits to facilities with emissions from their operations to the air. Authority for implementation of the APC permitting programs is granted via: (1) The Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121; and (2) Rule Chapters 1200-03-01 through -37.

All metrics for FY 2021 permit completeness decisions and final permit decisions are combined in Tables 1 and 2.

AIR POLLUTION CONTROL PERMITTING PROGRAM

APC is responsible for maintaining and improving air quality across Tennessee. This protects public health and environment. APC issues permits for businesses and industries that generate air emissions. As a part of the Air Pollution Control regulatory program, APC works with businesses, industries, local governments, and local citizens to ensure air emissions meet state and federal air quality standards. APC's goal is to improve air quality across Tennessee ensuring all Tennesseans breathe high quality air. The EPA Region IV office delegated authority to TDEC to implement the federal air pollution control regulations in Tennessee.

During the air permitting process, APC reviews permit applications and modifications for completeness. Because clean air is important to Tennesseans, EPA and TDEC have developed air emission standards that limit the contaminants released into the atmosphere. APC is required to review permit applications and modifications to make permit application completeness decisions. Per the TN APC regulations, TDEC is required to make permit completeness determinations within a specific number of days depending upon the permit application/modification type. Once APC determines a permit application is complete, APC is required to approve or deny the permit application/modification within regulatory permit specific regulatory time limits. For some permit applications, APC is required to exchange permit applications/modifications with EPA. Making permit decisions within regulatory time limits helps Tennessee competitively recruit new business and industry to the state and retaining current businesses and industries that are expanding.

PERMITTING METRICS

Table 1 reports APC's success in meeting the time limits for making permit completeness decisions in FY 2021. Table 2 reports APC's success in meeting the time limit to make final permit application decisions for FY 2021.

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In FY 2021, APC received 410 permit applications for completeness review. APC has 67 permit applications in house for permit completeness review for which the regulatory time limit has not passed. APC made permit completeness decisions for all 410 permit applications within the regulatory time limit (100.0%).

In FY 2021, APC received 1,587 permit applications for final approval or denial. There are 794 permit applications under final review for which the regulatory time limit has not expired. APC made 97.1% of all final permit decisions (770 of 793) within regulatory time limits.

APC's limited staffing levels led to the aforementioned noncompliance with regulatory time limits. The staffing levels were the result of insufficient funding during previous fiscal years, which delayed APC's ability to fill vacancies. These vacancies were filled during FY2021, and staff are currently being trained.

Table 3 compares the efficiency of permit application completeness decisions for Fiscal Years 2013 through 2021. During those 9 years, APC received an average of 751 permit applications for completeness review each fiscal year and made permit completeness decisions for 99.7% of all permit applications (5,722 of 5,740) within regulatory time limits.

Table 4 compares the efficiency of final permit decisions for Fiscal Years 2013 through FY 2021. During this 9-year period, APC received an average of 2,109 permit applications per Fiscal Year and made final permit decisions for 92.8% (13,207 of 13,936) of all permit applications within regulatory time limits.

DIVISION OF WATER RESOURCES

The Division of Water Resources (DWR) is responsible for issuing permits for wastewater collection and treatment, drinking water treatment and distribution, alteration of streams, installing water wells, construction of small dams, treating wastewater from individual homes or businesses, and disposal of water underground. For each of these program areas, DWR is authorized to review the planned activity and either approve or deny the activity via a permit decision. Authority for implementation of the DWR permitting programs is granted via: (1) the TN Subsurface Sewage Act, Tenn. Code Ann. §§ 68-221-401 to -419, and Rule Chapter 0400-48-01; (2) the TN Safe Drinking Water Act, Tenn. Code Ann. §§ 68-221-701 to -720, and Rule Chapter 0400-45-01; (3) the TN Water Quality Control Act, Tenn. Code Ann. §§ 69-3-101 to -148, and Rule Chapters 0400-40-01 through 18 and 0400-45-06; (4) the TN Water Well Driller's Act, Tenn. Code Ann. §§ 69-10-101 to -112; (5) the TN Safe Dams Act, Tenn. Code Ann. §§ 69-11-101 to -127, and Rule Chapter 0400-45-07; and (6) the TN Oil and Gas Production Act, Tenn. Code Ann. §§ 60-1-101 to -705, and Rule Chapters 0400-51-01 through 0400-58-01.

TDEC, through DWR, is responsible for issuing permits that protect the quality and quantity of two of Tennessee's most valuable natural resources; surface water (springs, creeks, rivers, and lakes) and ground water. As more businesses and industries come to Tennessee and our state population grows, our state is challenged with continuing to provide the amount of water needed and ensuring the quality of the water provided. Business and industry finds Tennessee a great place to operate because of its bountiful supply of water. Providing drinking water to our citizens, ensuring business and industry have the water resources needed to operate, ensuring that our citizens and visitors have safe and enjoyable water recreational opportunities, and protecting the diverse fish and aquatic life in Tennessee waters is a complex natural resource issue. Wise management of our water resources becomes more important every year.

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All metrics for FY 2021 permit completeness and final permit decisions are combined in Tables 1 and 2. Should anyone wish to have a breakdown of permit completeness or final permit decisions by category, TDEC can provide such information.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMITTING

This is a national EPA water pollution prevention program that regulates the direct discharge of treated wastewater into rivers and streams. EPA granted DWR the authority to implement the federal water pollution control regulations in Tennessee. Over 6,500,000 Tennesseans depend upon local utilities to collect and properly treat wastewater from their homes and businesses. DWR receives permit applications from business, industry, city, county, state and federal governments, and other entities that wish to discharge treated wastewater into rivers and streams. The permitting process evaluates the quality and quantity of the receiving stream and the quantity and quality of wastewater discharged into rivers and streams to determine if said wastewater may be discharged into a stream. TDEC, via the permit, sets the quantity and quality of wastewater discharged by a permittee directly into a river or stream. This ensures the receiving stream continues to meet all classified uses including domestic water supply, fish and aquatic life, recreational use, etc.

SAFE DRINKING WATER PROGRAM

DWR is responsible for ensuring that Tennesseans have a safe and plentiful source of drinking water. More than 6,000,000 citizens depend upon public water supply systems for their drinking water.

Implementation of the Safe Drinking Water regulations ensures that public water systems provide their customers (businesses, industries and local citizens) with water that is safe to drink, has adequate water pressure, and that water from the public water systems is available in quantities that meet the needs of local citizens and industries.

SUBSURFACE SEWAGE DISPOSAL PROGRAM

DWR implements the Subsurface Sewage Disposal System (SSDS) regulations, including the review of permit applications for the disposal of domestic sewage via septic tank and field lines. The SSDS Program provides for the proper collection and treatment of domestic wastewater in areas without wastewater treatment plants and wastewater collection systems (sewer lines). The SSDS Program ensures SSD systems are installed that properly treat domestic wastewater. When SSD systems fail in areas without public sewer service, then realistically, the home or business is no longer habitable because wastewater from the home or business cannot be treated. This also greatly reduces the value of the home or business due to lack of wastewater treatment. When SSD systems fail, untreated wastewater comes to the ground surface, creating a public health hazard.

AQUATIC RESOURCES ALTERATION PROGRAM PERMITTING

DWR oversees any actions that alter the physical, chemical, biological, or radiological characteristics of streams, or the withdrawal of water from streams. DWR regulates these activities by reviewing permit applications from persons who wish to alter streams. Examples of activities that require ARAP permits are changes in stream course, construction in streams (road projects, building projects), and altering a stream's channel. TDEC approves permit applications for the activity only when the permit protects the quality and the quantity of the river or stream.

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STATE OPERATING PERMIT PROGRAM

DWR oversees both the treatment of wastewater and the disposal of the treated wastewater by spray irrigation, drip irrigation, or dispersal below the surface of the ground. This form of wastewater treatment

is only used in areas where there is not a local stream nearby, or the stream cannot accept the volume of wastewater that would be discharged into the stream without affecting the stream's health. DWR ensures that the soil in the area of wastewater dispersal can effectively absorb the wastewater and that public health and the environment are protected. A common example of wastewater treatment via a State Operating Permit is collecting wastewater from subdivisions, transporting the wastewater to an on-site wastewater treatment system, and then using the treated wastewater to irrigate fields.

NON-POINT SOURCE POLLUTION PREVENTION

In this program, DWR requires persons to obtain a permit to ensure that when rainfall events occur, proper controls are in place to prevent surface water from running into local streams and causing pollution. Non-point source pollution occurs when there is heavy rainfall and pollutants

are transported in the runoff from parking lots, construction sites, Concentrated Animal Feeding Operations (CAFOs), etc. Construction stormwater runoff causes siltation of streams, which affects plant and animal life at the bottom of the stream. Surface water runoff also transports nutrients such as nitrates and phosphates into streams. These nutrients promote increased algae growth that lowers the water quality of the stream. When the nutrient levels in the stream decrease, the algae dies, causing taste and odor problems in the stream as well as the death of aquatic organisms due to the decreased availability of oxygen as algae decomposes.

OIL AND GAS PRODUCTION

On the Cumberland Plateau and the Eastern Highland Rim, there are deposits of oil and natural gas below the ground surface. Companies search for these deposits of oil and gas by applying for and receiving a permit to drill in the hydrocarbon reservoirs. The Oil and Gas Program assures that wells are drilled in a safe and environmentally responsible manner that protects public health and environmental standards, particularly ground water. The Oil and Gas Program is equally responsible for assuring that mineral rights of owners are protected, and the resource is responsibly extracted and produced.

SURFACE MINING

DWR regulates surface mining activities under the Tennessee Surface Mining Law of 1972. The statute requires a bond and reclamation of the mine site. The Tennessee Surface Mining Law is only applicable to certain minerals of commercial value found in natural deposits on or in the earth, but it does not include limestone, coal, marble, chert, gravel, sand or dimension stone. Sand and gravel is included in counties with a population of 600,000 or greater.

Surface mining often results in surface water runoff that may flow directly into streams. To prevent this from occurring, and in accordance with statute, the mining operator is required to obtain a water quality discharge permit (NPDES permit) from TDEC. The permit requires the permit holder to install structures that control and treat mine wastewater and stormwater runoff, which prevents stream damage.

UNDERGROUND INJECTION CONTROL

The Underground Injection Control (UIC) Program ensures (1) that liquids or gases injected into ground water do not cause ground water contamination and (2) that ground water remains usable as a drinking water source. Regulation of underground injection prevents the injection of fluids in a manner that may adversely affect public health or the environment.

SAFE DAMS

DWR is responsible for permitting dams, under the Tennessee Dam Safety Act. TDEC regulates small dams that do not fall within the purview of the Federal Emergency Management Act. DWR does not regulate dams that create “farm ponds”.

Members of the regulated community pursuing a permit or permit modification for any permitting program are required to submit applications to TDEC for review. TDEC determines if the proposed activity or change in the currently permitted activity meet specific regulatory requirements to protect surface water and ground water as well as maintaining public health and the environment. The statutes and regulations DWR is charged with implementing have set regulatory and statutory time limits that require DWR to review license and registration applications and modifications for completeness. DWR also has specific regulatory and statutory time limits to make final licensing and registration decisions for complete permit applications.

PERMITTING METRICS

Table 1 reports DWR’s success in meeting the time limits for making permit completeness decisions in FY 2021. Table 2 reports DWR’s success in meeting the time limit to make final permit application decisions for FY 2021.

DWR received 10,754 DWR permit applications for completeness review. DWR determined that 10,190 permit applications were complete within the regulatory time limits (97.4%). DWR did not meet the regulatory time limit for permit completeness review for 267 permit applications. DWR received 297 permit applications for which the time limit for completeness determination had not expired by June 30, 2021.

DWR received 28,133 permit applications for final approval or denial. There are 688 permit applications under final review for which the time limit for issuing a final permit decision has not expired. DWR made 99.7% of all final permit decisions (27,358 of 27,445) within regulatory time limits.

The aforementioned noncompliance with the specified time frames was due to the following:

- ARAP: Changes and new requirements associated with the federal 401 program added to review time, and the number of applications exceeded previous years although the number of staff stayed the same.
- Construction Storm Water: Most of the review delays were experienced during the three months of March, April, and May. The volume of permit applications is already greater than in previous years, and staff were not able to review so many at once.
- Other General Permits: DWR did not receive one application that was mailed until well after the 30-day review timeline. Also, the Tennessee Multisector Permit (TMSP) was reissued during this

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time frame, so some were held for new issuance. Vast majority of permittees switched from TMSP coverage to No Exposure Certification, which is not considered "permit issuance."

- CAFO: Tennessee Department of Agriculture does not have a full time CAFO reviewer on staff which has made it difficult to review applications within 30 days.
- NPDES: (1) Application submitted but misplaced in office in November 2020 during pandemic, and it was resubmitted electronically in March 2021. (2) A complete or incomplete application notification was not able to be sent until the submitted plans were reviewed and approved. Two of these applications required more extensive engineering reviews, which took a bit more time to complete. The other coverage was a technicality in which we did not consider the application actually received until the Preliminary Planning Discussion was held.

Table 3 compares the efficiency of permit application completeness decisions for Fiscal Years 2013 through 2021. During those 9 years, DWR received an average of 8,822 permit applications for completeness review each fiscal year. DWR also made permit completeness decisions for 97% of all permit applications (75,218 of 77,435) within regulatory time limits.

Table 4 compares the efficiency of final permit decisions for Fiscal Years 2013 through FY 2021. During this 9-year period, DWR received, on average, 26,267 permit applications per fiscal year. DWR also made final permit decisions for 98.1% (224,306 of 227,287) of all permit applications within regulatory time limits.

FY 2021 ENVIRONMENTAL PERMITTING REPORT SUMMARY

TDEC works to meet regulatory time limits for permit completeness and final permit decisions. Making permitting decisions within regulatory time limits is required by statute and regulation, but it is also important to persons applying for permits. TDEC makes permit decisions based on science and fact, but we also recognize the time value of money for those persons seeking a permit or permit modification. When TDEC makes timely permit decisions, it allows businesses and industry to operate more efficiently. TDEC will continue its efforts to make timely permit decisions by reviewing internal business processes for improvement opportunities.

Table 1 provides TDEC’s metrics for permit completeness decisions. For the FY 2021 reporting period, TDEC received 15,581 permit applications with 381 permit applications under review for which the regulatory review period had not expired. TDEC made permit completeness decisions for 98.2% (24,933 of 15,581) of all permit applications received.

Table 2 provides TDEC’s metrics for final permit decisions. For the FY 2021 reporting period, TDEC received 39,717 permit applications with 1,559 permit applications under review for which the regulatory review period had not expired. TDEC made final permit decisions for 99.7% of all permit applications (38,048 of 38,158) within the regulatory time limit.

Table 3 compares the efficiency of permit application completeness decisions for Fiscal Years 2013 through 2021. During this 9-year period, TDEC received an average of 13,919 permit applications for completeness review per fiscal year. An average of 327 permit applications were under permit completeness review for which the regulatory time limit had not expired. TDEC also made permit completeness decisions for 98.2% of all permit applications (119,948 of 122,190) within regulatory time limits.

Table 4 compares the efficiency of final permit decisions for Fiscal Years 2013 through FY 2021. During this 9-year period, TDEC received an average of 37,804 permit applications per fiscal year. An average of 2,444 permit applications were under evaluation for approval/denial for which the regulatory time limit had not expired. TDEC also made final permit decisions for 98.3% (34,857 of 335,348) of all permit applications within regulatory time limit.

TDEC continues to review its business processes and evaluate methods to distribute workload. We are also providing training opportunities for staff. Another avenue TDEC is pursuing to increase the rate that permit decisions are made within regulatory time limits is the evaluation of the requirements for different types of permits. Where state and federal statutes and rules provide flexibility, TDEC is transitioning from individual permit applications to general permit & permit-by-rule applications. We are also investigating moving some activities authorized via a general permit to notification of activity. When this transition occurs, applicants will be required to meet specific reporting and inspection requirements to ensure protection of public health and the environment.

While TDEC has worked to decrease the time required to make permit decisions, we have not lost sight of the need to improve permit quality and our public participation process. The same LEAN analyses that were conducted to improve the timeliness of permit decisions have also led to environmental permits the permittee can more easily read, understand, and implement. We have worked to improve our public participation process, incorporating the assistance of our Regional Directors of External Affairs. The Regional External Affairs Directors developed a standard protocol to alert any interested parties of public meetings and hearings about permit applications. We have also modified the structure of public meetings to ensure maximum attendee participation. We have trained more staff members to assist with public

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meetings, which in turn make more staff members available to conduct public meetings and hearings, as well as talk informally with meeting attendees.

The changes in environmental permitting processes made by TDEC help ensure that environmental permit decisions are: (1) made in a timely manner, respecting the time value of money and construction and operational schedules; (2) based on science and fact, providing environmental and public health protection; (3) made following standard procedures to ensure consistency in permit requirements; (4) made transparently, maximizing the opportunity for public participation; and (5) made professionally to ensure our staff treats the permit applicant respectfully.

We hope the information in this report is of assistance to the Governor, the General Assembly, and the citizenry at large. Should anyone have questions, comments, or concerns about this report, please feel free to contact Molly Cripps, Director of BOE Operations (email molly.cripps@tn.gov or phone 615-253-1945).

Table 1. FY 2021 Bureau of Environment Permitting Performance - Permit Completeness Decisions

Compliance with Permit Review Completeness Decision Time Limits						
Permit Completeness Determination	Permit Applications Received for FY 2021	Applications Under Review – Time Remaining	Applications to be Reviewed	Applications Reviewed by Deadline	Applications Not Reviewed by Deadline	% Permit Reviews on Time
APC	410	67	343	343	0	100.0%
DRH	4,336	0	4,336	4,336	0	100.0%
DWR	10,754	297	10,457	10,190	267	97.4%
SWM	81	17	64	64	0	100.0%
Totals/Avg	15,581	381	15,200	14,933	267	98.2%

Table 2. FY 2021 Bureau of Environment Permitting Performance - Final Permit Decisions

Compliance with Final Permit Decision Time Limits						
Final Permit Decisions	Permit Applications Received for FY 2021	Applications Under Review – Time Remaining	Applications to be Reviewed	Applications Reviewed by Deadline	Applications Not Reviewed by Deadline	% Permit Reviews on Time
APC	1,587	794	793	770	23	97.1%
DRH	4,336	0	4,336	4,336	0	100.0%
DWR	28,133	688	27,445	27,358	87	99.7%
SWM	5,661	77	5,584	5,584	0	100.0%
Totals/Avg	39,717	1,559	38,158	38,048	110	99.7%

Table 3. Comparison of Permit Completeness Data - FY 13 through FY 21

Compliance with Permit Review Completeness Decision Time Limits

Air Pollution Control

	Applications Received	Applications Under Review - Time Remaining	Applications to be Reviewed	Applications Reviewed by Deadline	Applications Not Reviewed by Deadline	% Permit Completeness Review on Time
FY 13	924	63	861	861	0	100.0%
FY 14	1,153	456	697	679	18	97.4%
FY 15	896	111	785	785	0	100.0%
FY 16	1,545	60	1,485	1,485	0	100.0%
FY 17	462	60	402	402	0	100.0%
FY 18	441	0	441	441	0	100.0%
FY 19	538	142	396	396	0	100.0%
FY 20	390	60	330	330	0	100.0%
FY 21	410	67	343	343	0	100.0%
Total	6,759	1,019	5,740	5,722	18	
Avg.	751	113	638	636	2	99.7%

Radiological Health

FY 13	3,376	0	3,376	3,376	0	100.0%
FY 14	3,767	0	3,767	3,767	0	100.0%
FY 15	4,489	0	4,489	4,489	0	100.0%
FY 16	4,672	0	4,672	4,672	0	100.0%
FY 17	4,445	0	4,445	4,444	1	100.0%
FY 18	4,147	0	4,147	4,147	0	100.0%
FY 19	3,894	0	3,894	3,894	0	100.0%
FY 20	3,972	0	3,972	3,972	0	100.0%
FY 21	4,336	0	4,336	4,336	0	100.0%
Total	37,098	0	37,098	37,097	1	
Avg.	4,122	0	4,122	4,122	0	100.0%

Solid Waste Management

FY 13	470	5	465	462	3	99.4%
FY 14	500	8	492	490	2	99.6%
FY 15	325	11	314	314	0	100.0%
FY 16	336	3	333	333	0	100.0%
FY 17	74	17	57	57	0	100.0%
FY 18	79	15	64	64	0	100.0%
FY 19	76	15	61	61	0	100.0%
FY 20	77	10	67	66	1	98.5%
FY 21	81	17	64	64	0	100.0%
Total	2,018	101	1,917	1,911	6	
Avg.	224	11	213	212	1	99.7%

Table 3. Comparison of Permit Completeness Data - FY 13 through FY 21 - continued

Compliance with Permit Review Completeness Decision Time Limits						
Water Resources						
FY 13	6,868	41	6,827	6,435	392	94.3%
FY 14	6,353	88	6,265	6,003	262	95.8%
FY 15	12,487	216	12,271	11,788	483	96.1%
FY 16	6,928	16	6,912	6,574	338	95.1%
FY 17	7,003	170	6,833	6,707	126	98.2%
FY 18	9,771	566	9,205	9,095	110	98.8%
FY 19	9,596	261	9,335	9,234	101	98.9%
FY 20	9,637	169	9,330	9,192	138	98.5%
FY 21	10,754	297	10,457	10,190	267	97.4%
Total	79,397	1,824	77,435	75,218	2,217	
Avg.	8,822	203	8,604	8,358	246	97.0%
Bureau of Environment						
FY 13	11,638	109	11,529	11,134	395	96.6%
FY 14	11,773	552	11,221	10,939	282	97.5%
FY 15	18,197	338	17,859	17,376	483	97.3%
FY 16	13,481	79	13,402	13,064	338	97.5%
FY 17	11,984	247	11,737	11,610	127	98.9%
FY 18	14,438	581	13,857	13,747	110	99.2%
FY 19	14,104	418	13,686	13,585	101	99.3%
FY 20	14,076	239	13,699	13,560	139	99.0%
FY 21	15,581	381	15,200	14,933	267	98.2%
Total	125,272	2,944	122,190	119,948	2,242	
Avg.	13,919	327	13,577	13,328	249	98.2%

Table 4. Comparison of Permit Decision Data - FY 13 through FY 21

Compliance with Final Permit Decision Time Limits

Air Pollution Control

	Applications Received	Applications Under Review - Time Remaining	Applications to be Reviewed	Applications Decision Made by Deadline	Applications Decisions Not Made by Deadline	% Permit Decisions Made within Review Time
FY 13	1,248	238	1,010	604	406	59.8%
FY 14	1,428	307	1,121	1,001	120	89.3%
FY 15	2,734	708	2,026	1,975	51	97.5%
FY 16	2,257	613	1,644	1,594	50	97.0%
FY 17	1,867	708	1,159	1,120	39	96.6%
FY 18	2,414	698	1,716	1,706	10	99.4%
FY 19	3,533	552	2,981	2,971	10	99.7%
FY 20	1,911	425	1,486	1,466	20	98.7%
FY 21	1,587	794	793	770	23	97.1%
Total	18,979	5,043	13,936	13,207	729	
Avg	2,109	560	1,548	1,467	81	92.8%

Radiological Health

FY 13	3,376	0	3,376	3,376	0	100.0%
FY 14	3,767	0	3,767	3,767	0	100.0%
FY 15	4,489	0	4,489	4,489	0	100.0%
FY 16	4,672	0	4,672	4,672	0	100.0%
FY 17	4,445	0	4,445	4,444	1	100.0%
FY 18	4,147	0	4,147	4,147	0	100.0%
FY 19	3,894	0	3,894	3,894	0	100.0%
FY 20	3,972	0	3,972	3,972	0	100.0%
FY 21	4,336	0	4,336	4,336	0	100.0%
Total	37,098	0	37,098	37,097	1	
Avg	4,122	0	4,122	4,122	0	100.0%

Solid Waste Management

FY 13	3,961	0	3,961	3,800	161	95.9%
FY 14	5,445	14	5,431	5,425	6	99.9%
FY 15	5,209	9	5,200	5,199	1	100.0%
FY 16	5,311	63	5,248	5,248	0	100.0%
FY 17	5,374	314	5,060	5,060	0	100.0%
FY 18	5,816	77	5,739	5,739	0	100.0%
FY 19	5,524	3,967	1,556	1,555	1	99.9%
FY 20	5,632	4,064	1,568	1,568	0	100.0%
FY 21	5,661	77	5,584	5,584	0	100.0%
Total	47,933	8,585	39,347	39,178	169	
Avg	5,326	954	4,372	4,353	19	99.5%

Table 4. Comparison of Permit Decision Data - FY 13 through FY 21 - continued

Compliance with Final Permit Decision Time Limits

Water Resources

	Applications Received	Applications Under Review - Time Remaining	Applications to be Reviewed	Applications Decision Made by Deadline	Applications Decisions Not Made by Deadline	% Permit Decisions Made within Review Time
FY 13	14,081	388	13,693	12,409	1,284	90.6%
FY 14	30,445	98	30,347	30,292	55	99.8%
FY 15	30,114	748	29,366	29,118	248	99.2%
FY 16	30,427	3	30,424	29,014	1,410	95.4%
FY 17	18,456	184	18,272	18,178	94	99.5%
FY 18	23,712	758	22,954	22,820	134	99.4%
FY 19	38,462	4,872	33,474	33,358	116	99.7%
FY 20	22,572	627	21,852	21,759	93	99.6%
FY 21	28,133	688	27,445	27,358	87	99.7%
Total	236,402	8,366	227,827	224,306	3,521	
Avg	26,267	930	25,314	24,923	391	98.1%

Bureau of Environment

FY 13	22,666	626	22,040	20,189	1,851	91.6%
FY 14	41,085	419	40,666	40,485	181	99.6%
FY 15	42,546	1,465	41,081	40,781	300	99.3%
FY 16	42,667	679	41,988	40,528	1,460	96.5%
FY 17	30,142	1,206	28,936	28,802	134	99.5%
FY 18	36,089	1,533	34,556	34,412	144	99.6%
FY 19	51,413	9,391	41,905	41,778	127	99.7%
FY 20	33,915	5,116	28,799	28,686	113	99.6%
FY 21	39,717	1,559	38,158	38,048	110	99.7%
Total	340,240	21,994	318,129	313,709	4,420	
Avg	37,804	2,444	35,348	34,857	491	98.3%

Appendix 1

Tennessee Code Annotated Section 4-3-506 TDEC Annual and Semiannual Legislative Permitting Reports

Title 4 State Government Chapter 3 Creation, Organization, and Powers of Administrative Departments and Divisions Part 5 Department of Environment and Conservation

Tenn. Code Ann. § 4-3-506 (2020)

4-3-506. Making completeness determinations and issuing or denying permits within time frame specified in department's rules and regulations.

(a) It is the intent of the general assembly that the department of environment and conservation seek to accomplish making a completeness determination and issuing or denying any permit within the time frames specified by the department's rules and regulations.

(b)

(1) The commissioner shall prepare semiannual permitting efficiency reports that include statistics demonstrating whether the department has acted on permit applications within the time frames established by rule. The statistics may be summarized by organizational unit established under § 4-3-503. The reports are due February 1 and August 1 of each calendar year.

(2)

(A) The report due February 1 must report data for the first six (6) months of the current fiscal year.

(B) The report due August 1 must report data for the entire previous fiscal year and must also specify any program or system changes to be made if the commissioner determines that program or system changes are necessary to achieve compliance with any time frame.

(3) If a report indicates that a division is not complying with the specified time frames, then the report must include a determination of the cause of the noncompliance.

(4) The reports must be posted on the department's website and electronically submitted to the governor and members of the general assembly.

HISTORY: Acts 2012, ch. 980, § 1; 2020, ch. 593, § 1.

TENNESSEE CODE ANNOTATED
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