



DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

June 21, 2017

The Honorable Bob Worsley, Chair
Joint Legislative Audit Committee

The Honorable Anthony Kern, Vice Chair
Joint Legislative Audit Committee

Dear Senator Worsley and Representative Kern:

Our Office has recently completed a 42-month followup of the *Department of Environmental Quality—Sunset Factors* regarding the implementation status of the 8 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in September 2013 (Auditor General Report No. 13-10). As the attached grid indicates:

- 5 have been implemented;
- 1 has been implemented in a different manner;
- 1 is in the process of being implemented; and
- 1 is not yet applicable.

Unless otherwise directed by the Joint Legislative Audit Committee, this concludes our followup work on the Department of Environmental Quality's efforts to implement the recommendations from the September 2013 sunset review report.

Sincerely,

Dale Chapman, Director
Performance Audit Division

DC:ka

Attachment

cc: Misael Cabrera, Director
Department of Environmental Quality

Department of Environmental Quality—Sunset Factors

Auditor General Report No. 13-10

42-Month Follow-Up Report

Recommendation	Status/Additional Explanation
<p>Sunset Factor #2 The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.</p>	
<p>1. The Department should track renewals of Aquifer Protection Permit (APP) general permit coverage. Additionally, it should:</p> <p style="margin-left: 20px;">a. Notify permittees in writing when their coverage is coming due for renewal;</p> <p style="margin-left: 20px;">b. Identify any entities with expired APP coverage, determine if they are still operating in a manner that requires a permit, and notify them of their duty to submit a new application for coverage or face enforcement action for operating without a permit; and</p> <p style="margin-left: 20px;">c. Develop a process for addressing facilities that do not renew on time in the future.</p>	<p>Implemented at 30 months</p> <p>Implemented at 30 months</p> <p>Implementation in Process As discussed in the 30-month followup, in March 2015, the Department developed and tested a pilot procedure for identifying and notifying entities with expired APP coverage, and determining if the entities were still operating in a manner that required a permit. As part of the pilot procedure, the Department identified more than 125 facilities with permit coverage that had expired since fiscal year 2006, the first year for which it had available data. It then sent letters to 40 entities with coverage that had expired during the 2 years prior to the pilot. The letters notified the entities that their APP general permit coverage had expired and requested that the entities either reapply for coverage, provide the Department with written notification of facility closure and closure verification, or notify the Department if the facility no longer required coverage for some other reason, such as if it was covered under an individual permit.</p> <p>The Department reported at 30 months that, based on what it believed to be the poor results of the pilot procedure, it did not plan to send similar letters to any of the remaining facilities with permit coverage that had expired since fiscal year 2006. However, as of May 2017, the Department reported taking steps to continue notifying the remaining facilities with permit coverage that had expired since fiscal year 2006. The Department did not provide documentation of steps taken to notify the holders of expired permits, or provide a timeline for the completion of the project.</p> <p>Implemented at 42 months</p>

Recommendation**Status/Additional Explanation**

2. The Department should develop written policies and procedures for reviewing air quality general permit applications and continue with efforts to test the feasibility of e-permitting for air quality general permits and, if these e-permitting tests prove successful, use e-permitting for all of its air quality general permits and develop policies, procedures, or other guidance documents for manager review of e-permitting decisions and periodic audits of the e-permitting system.

Implemented in a different manner at 42 months
As of May 2017, the Department had developed and implemented standard operating procedures for staff to use when reviewing applications for air quality general permit coverage. In addition, it had implemented an automated, online e-permitting system for three of the seven air quality general permits issued by the Department. These three general permits account for nearly 90 percent of the entities covered by all of the Department's air quality general permits. Further, the Department had developed and implemented standard operating procedures for manager review of e-permitting decisions and periodic audits of the e-permitting system. However, the Department reported that it did not have any specific plans to use e-permitting for the four remaining air quality general permits because the costs of transitioning these permits to the e-permitting system were not warranted given the small number of entities covered by these four permits.

3. Similar to the risk-based inspection approach recommended in the Office of the Auditor General's March 2013 report (see Report No. 13-01), the Department should assess the risks posed by small on-site wastewater systems against the risks posed by the other facilities it regulates and inspects in order to prioritize inspections of on-site wastewater systems and identify which applicants should be inspected prior to approving operation. This approach should be implemented by both its main and Southern Regional Offices.

Implemented at 42 months

Sunset Factor #4 The extent to which rules adopted by the Department are consistent with the legislative mandate

4. The Department should complete the rule making process for the rules required by A.R.S. §49-761 once the Governor's rule making moratorium expires.

Not yet applicable
As of June 2017, the Governor's rule making moratorium has not expired. The Department reported that, when the moratorium expires, it will assess all its rule making priorities, including the rules required by A.R.S. §49-761.

Sunset Factor #5 The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

5. To fully comply with A.R.S. §41-1091.01, the Department should post on its website the full text of each substantive policy statement currently in use and the required notice that the substantive policy statement is advisory only.

Implemented at 30 months