

LBA Performance Audit Report Summary:

Alteration of Terrain and Wetlands Permitting Audit Report – August 2007

The purpose of the audit was to assess if the Department of Environmental Services (DES) is efficient and effective in administering specific Water Division permitting functions. The audit period includes State fiscal years 2004 through 2006.

Through its alteration of terrain (AoT) and wetlands permitting programs, the DES exercises responsibility for implementing, monitoring, and enforcing State and some federal environmental programs. These programs regulate the scope of construction projects to protect wetlands habitat and provide for anticipated water drainage needs. We focused our review on three types of Wetlands Bureau permits: Permit By Notification (PBN), Minimum Impact Expedited (MIE), and Standard Dredge and Fill (SDF). These permits cover common projects like driveway culverts and the maintenance of docks and retaining walls, to more expansive projects such as malls, roadways, and runways. The size of the impact on wetlands determines which permit type is required. In addition, we reviewed AoT permits, which are commonly known as site specific permits.

As a result of statutory changes effective at the start of State fiscal year 2004, the Wetlands Bureau must meet certain time limits in 1) determining whether wetlands applications are administratively complete, 2) finishing the technical review of proposed projects, and 3) making timely decisions based on the submission date of requested information. Failure by the Bureau to meet any of these time limits requires applications to be deemed approved in the case of SDF and MIE applications. In the case of PBNs, lack of DES response within a defined period of time means proposed projects can proceed.

RESULTS IN BRIEF

Our audit presents 19 observations that found inadequate administrative rules, policies, procedures, and collection of program data. The AoT Section and the Wetlands Bureau have not consistently followed the Department's unwritten policy of first in, first out when processing applications and have provided some degree of preferential treatment for certain applicants.

The Wetlands Bureau has not been successful in meeting permitting deadlines. Our random samples of permit applications found at least 47 percent of MIEs, 30 percent of PBNs, and 19 percent of SDFs were not processed timely. Additionally, the Bureau failed to notify applicants when these deadlines were missed and their applications were deemed to be approved by State law.

We found the administrative rules, policies, and procedures in place for processing wetlands permits were inadequate in ensuring the applications were processed within the time limits and, in some cases, even created obstructions for the Bureau to succeed. We also found that weaknesses in the Wetlands Bureau information system were factors in the Bureau's failure to

process applications timely. The Bureau's database has not been reprogrammed to track new statutory time limits and Bureau-developed weekly activities reports have been inaccurate.