



At a Glance

Why We Did This Review

This review responds to a request from the Ranking Member of the Senate Committee on Environment and Public Works. The senator asked us to determine: (1) the status of a list of 237 mountaintop mining permit applications and the length of review time for each permit; (2) reasons for the length of review for each permit; and (3) the number of permits that the U.S. Environmental Protection Agency (EPA) has processed according to “enhanced review” and “conductivity” procedures, and the average length of time to process a permit under these procedures.

Background

The U.S. Army Corps of Engineers issues permits for surface coal mining under Section 404 of the Clean Water Act. EPA assesses the environmental and water quality impacts of proposed Section 404 permits.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20111121-12-P-0083.pdf

Congressionally Requested Information on the Status and Length of Review for Appalachian Surface Mining Permit Applications

What We Found

After reconciling discrepancies and vetting information, we identified 185 surface mining permit applications to review from the list of 237 that we received from the senator. In response to the senator’s first request, we found that over half of all permit activities—whether permitted, withdrawn, or pending—have taken a year or longer, with approximately 40 percent exceeding 2 years. Of our vetted universe of 185 projects, the Corps reviewed and issued 25 permits within 144 days from the notification/application date. (According to EPA, this is historically the average length of review for all individual permits, not simply those for surface coal mining.) Of the 25, the Corps reviewed and issued 20 permits within 90 days and another 3 by 120 days (the Corps’ goal). More than one-third of issued permits took a year or longer to process.

In response to the senator’s second request, we found that several reasons account for the length of time associated with processing permit applications:

- Complex reviews based on new scientific evidence
- Applicant factors
- Involvement of EPA headquarters
- Corps procedural change

In response to the senator’s third request, we found that EPA identified 79 permit applications for enhanced review and, to date, has issued 8 permits. (The United States District Court for the District of Columbia recently held that the EPA operated beyond the scope of its authority under the Clean Water Act when it instituted the enhanced coordination process, and the court ordered it to be set aside.) In April 2010, EPA issued interim guidance that included conductivity benchmarks for Appalachian projects. Conductivity is a measure of a stream’s ability to conduct an electrical current, and an EPA study observed an association between high conductivities in streams below surface coal mining operations and impairment of aquatic life. We found that, to date, EPA has commented on 24 projects in light of its April 1, 2010, interim guidance. EPA issued its final guidance on July 21, 2011, which replaced the interim guidance. EPA said that regions should begin consulting the final guidance immediately.

This report makes no recommendations to EPA. We plan to report separately to EPA on one observation pertaining to recordkeeping.