

Mardi Gras for Permits

Louisiana's expedited permit program

By James Broughel

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The Louisiana Department of Environmental Quality's (LDEQ) Expedited Permit Program, established in 2006, represents an innovative approach to speeding up environmental permit approvals. This report examines the program's history and structure, which allows permit applicants to pay for overtime costs incurred by LDEQ staff or contractors to accelerate the processing of environmental permits, modifications, licenses, registrations, or variances. The program has the potential to reduce regulatory bottlenecks and promote economic growth. However, the effectiveness of the program has yet to be studied in detail. This brief concludes with recommendations for enhancing the program's effectiveness, such as by adopting formal deadlines for permits and granting automatic approval when deadlines are missed.

Officials working overtime

In 2006, the Louisiana legislature passed Acts 586 and 779, authorizing the LDEQ to develop an expedited permitting program.¹ The expedited permit program allows applicants to reimburse the department for overtime costs incurred by LDEQ employees who work extra hours to process permits more quickly. Additionally, the department has the option to hire contractors to perform this work if necessary. This approach attempts to implement a market-based solution to the problem of regulatory delays, allowing those who place a higher value on faster processing to pay for that service.

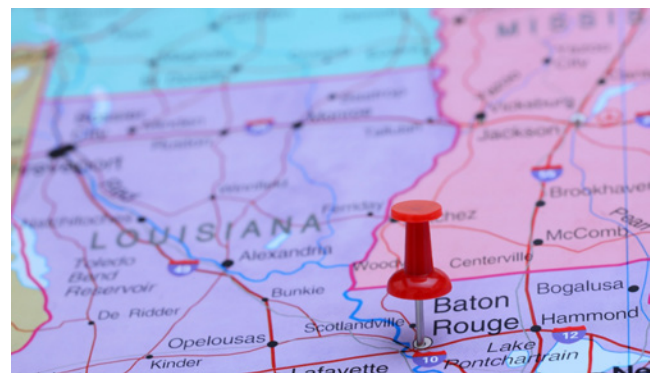
The LDEQ's expedited permit program is codified in Chapter 18 of Title 33 of the Louisiana Administrative Code.² The chapter outlines the scope, eligibility criteria, procedures, and fee structure for the program. Not all permitting activities are eligible for expedited processing. Instead, the program prioritizes:

- Applications for initial permits or permit modifications necessary for new construction;
- Modifications that increase production benefiting the economy or that provide direct environmental benefits;
- Permit renewals and reconciliations on a case-by-case basis;

- And requests that will result in the creation of new permanent jobs.

Applicants must submit a request for expedited processing using an approved form.³ The administrative authority has 10 working days to decide whether to grant or deny the request.⁴ If additional information is needed during the review process, the applicant must respond within a specified timeframe.⁵

The fee for expedited processing is based on the maximum per-hour overtime salary, including associated benefits, of the civil service employee or contractor who performs the work.⁶ Applicants can request a maximum amount for the expedited processing fee, which then limits the number of overtime hours worked on their application.⁷



¹ "Expedited Permit Program and NOC-1 Form," Louisiana Department of Environmental Quality, accessed July 29, 2024, <https://deq.louisiana.gov/page/expedited-permit-program>.

² Louisiana Administrative Code 33 §§ 1801-1809, <https://deq.louisiana.gov/assets/docs/General/LAC33Chapter18.pdf>.

³ Louisiana Administrative Code 33 § 1803(A).

⁴ Louisiana Administrative Code 33 § 1803(B).

⁵ Louisiana Administrative Code 33 § 1803(D).

⁶ Louisiana Administrative Code 33 § 1803(A)(1).

⁷ Louisiana Administrative Code 33 § 1803(A)(3).



To ensure transparency, the LDEQ is required to provide public notice of each request for expedited processing.⁸ This notice includes details such as the applicant's name, the environmental medium involved, and the dates of the request and decision, which then appears on the LDEQ's website.⁹

Conclusion and policy recommendations

By allowing applicants to pay for faster processing, the LDEQ's expedited permit program introduces market mechanisms into the regulatory process. Those who value faster processing can pay for it, potentially increasing allocative efficiency. This may lead to faster implementation of economically beneficial projects while freeing up regular processing capacity for other applications.

However, this system is not without its drawbacks. Ideally, timely permit processing would be available to all applicants. Smaller projects or applicants with limited financial resources may find themselves unable to access faster processing times due to the cost barriers involved. Thus, Louisiana lawmakers should consider adopting a tiered system of fees and expediting options to accommodate the range in applicants' ability to pay.

While comprehensive data on the program's outcomes are not provided in the available documentation, the continued existence of the program since 2006 suggests that it has been deemed valuable by both the LDEQ and permit applicants. To assess the program, the state should conduct a thorough evaluation of the program's outcomes, including its effects on permitting times, environmental protection, and economic development. Such an

evaluation should include a comparison with regular permitting outcomes.

Additionally, Louisiana policymakers may want to attach deadlines to specific permits and include these deadlines in the expedited review program. For example, Pennsylvania created an expedited permit review program. If the review fails to result in a decision by a specified date associated with the state permit decision guarantee, the relevant agency must refund the additional costs and fees associated with third party review of permits to applicants.¹⁰ Arizona is a state where submissions are approved automatically in some cases if the government fails to act within a specified timeframe.¹¹ For deadlines to be attached to permits, however, an audit may have to be conducted to assign specific deadlines to specific permits, as Pennsylvania has done.¹² Virginia is a state that has certification programs in place for several environmental programs. These allow for faster processing when applications are certified by professionals who have passed certain tests and completed training.¹³

As environmental regulations continue to expand and evolve in Louisiana, the state would be wise to consider how these and other states have approached the issue of expedited permitting. A goal for permitting reviews going forward should be to create a process that is flexible enough to adapt to evolving needs. By incorporating payments for extra services Louisiana is taking a step in the right direction, though further refinements to the expedited permitting process may be necessary to fully realize the program's potential.

About the author

Dr. James Broughel is a Senior Fellow at the Competitive Enterprise Institute. He is an accomplished economist whose expertise lies in regulatory institutions and the impact of regulations on economic growth. Broughel is author of the book *Regulation and Economic Growth: Applying Economic Theory to Public Policy*. This research was conducted with the support of the Hoover Institution's State and Local Governance Initiative's Small Business Regulation Visiting Fellowship.

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⁸ Louisiana Administrative Code 33 § 1809.

⁹ Louisiana Department of Environmental Quality, "List of Requests for Expedited Permitting Activities," accessed July 29, 2024, <https://internet.deq.louisiana.gov/portal/DIVISIONS/PPPSD/LIST-OF-REQUESTS-FOR-EXPEDITED-PERMITTING-ACTIVITIES>.

¹⁰ Pennsylvania House Bill No. 2310, Regular Session 2023-2024, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&slnd=0&body=H&type=B&bn=2310>.

¹¹ James Broughel, *Boosting Business in the Desert: Three cheers for Arizona's smart permitting reforms*, (Competitive Enterprise Institute, October 2024), <https://cei.org/studies/boosting-business-in-the-desert/>.

¹² Pennsylvania Department of Environmental Protection, Office of Program Integration, "Policy for Implementing the Department of Environmental Protection (Department) Permit Review Process and Permit Decision Guarantee," November 2, 2012, https://files.dep.state.pa.us/LicensingPermitsCertification/PermitDecisionGuaranteePortalFiles/021-2100-001_PRP_and_PDG_Policy.pdf.

¹³ Personal communication with official from the Virginia Department of Environmental Quality, June 13, 2024.



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