



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Waterways Engineering and Wetlands

Standard Operating Procedures (SOP) for Major Modification for the NPDES Individual Permit for Stormwater Discharges Associated with Construction Activities

September 4, 2013

DISCLAIMER: The process and procedures outlined in this Standard Operating Procedure (SOP) are intended to supplement existing requirements. Nothing in the SOP shall affect regulatory requirements.

The process, procedures and interpretations herein are not adjudication or a regulation. There is no intent on the part of DEP to give the rules in this SOP that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

This SOP describes the procedures and work flows associated with the review of major modifications for individual NPDES Permit applications for stormwater discharges associated with construction activities in accordance with the Department's Policy for Implementing the Department of Environmental Protection (Department) Permit Review Process and Permit Decision Guarantee, (Executive Order 2012-11, Document Number 021-2100-001). Permit decisions for new individual NPDES stormwater construction permit applications will be made within **107 business days** of the date the application is considered to be complete. The 107 business days are the maximum length of time to reach a permit decision. In many cases reviews will be completed in fewer days than the maximum days listed in this SOP. When reviews are completed prior to the 107 business day timeframe or other time frames as established under this SOP, appropriate permit actions should be taken at that time. There may also be circumstances when the permit application is deemed to be outside the parameters of the permit decision guarantee and there is no obligation by the reviewer to reach a permit decision within 107 business days. In those cases there is no guarantee to the permit applicant and no penalty to the reviewer if the permit decision is not made within 107 business days.

I. Pre-Application Process

Pre-application meetings with the conservation district and the Department are voluntary but highly encouraged for applicants of projects with major modifications to their permit. The use of both informal and formal pre-application may assist in faster processing and review of the Major modification permit applications. There are two types of pre-application meetings, formal and informal. Informal pre-application meetings are for those major modification projects that are in the early planning stages and function as an educational tool for applicants; these meetings are voluntary. Formal pre-application

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meetings are for those major modification projects that are ready to apply for a permit(s) modification and function as an opportunity to ensure all regulatory requirements are clearly articulated. These meetings may be waived at the discretion of the Department and delegated conservation district. If the applicant wants to have the pre-application meetings

the conservation district and Department staff should follow the SOP guidelines for new Individual Permits section 1A and 1B.

II. Application Completeness Review

Note: Please refer to the supplemental SOP for implementing the Pennsylvania Natural Diversity Inventory (PNDI) during pre-application meetings and during the review and evaluation of an application for a major modification of an NPDES Individual Permit for Stormwater Discharges Associated with Construction Activities if necessary (when extending permit boundary).

When the applicant has submitted an application package to either the delegated conservation district or the Department regional office, the conservation district or the Department application manager will conduct the following:

1. If a formal pre-application meeting was not held prior to application package submission, the conservation district and the regional office will meet (this can be done by conference call) within 5 business days of receipt of the application to designate the application manager for the application, determine the priority of the permit application review and establish the permit decision guarantee time frame(s), when applicable.
2. Assign the permit application package a permit number for a major modification.
3. The delegated conservation district and Department staff will process and deposit permit application fees in accordance with the Bureau's PCM that provides clarification on the Department's policy for the Deposit of Fees, Fines, Penalties and Other Revenue (Document OAM-1000-01, November 29, 2012).
4. If the delegated conservation district is processing the permit application, the district will forward the following to the Department Regional Office upon receipt of the application package:

A photocopy of the first page of the General Information Form (GIF), a photocopy of the first page of the NOI/application and the check for the disturbed acre fee. (This check is based on the additional disturbed acres as part of the major modification, rounded to the nearest whole number. See DEP Program Clarification Memo PCM_WET_ESS_12_001, October 17, 1992).

5. The delegated conservation district may forward the disturbed acre checks to the regional office as they are received or may bundle them and forward all disturbed acre fee checks at least once a week to the regional office. Conservation districts **should not hold** the disturbed acre fee until the application completeness check has been completed.

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6. The Department regional office will provide an e-mail confirmation to the delegated conservation district upon receipt of the disturbed acre fee checks.
7. The delegated conservation district will deposit payment of the permit application administrative filing fee for the major modification to the individual NPDES permit to the appropriate district Clean Water Fund within 10 business days of the receipt of the application package.

Delegated conservation districts should not hold the permit application fee until the application completeness review is done.

8. The conservation district or the Department application manager will review the application package within 15 business days of receipt to ensure that it is a complete and technically adequate application package. The completeness checklist submitted with the permit application should be used to complete this review. If the application is complete proceed to Section IIA; if the application is incomplete continue with this section.
9. If the application contains deficiencies that are determined to be minor, the conservation district or the Department application manager will contact the applicant by telephone to explain the deficiency and offer the opportunity to submit the necessary materials informally before the completeness review deadline expires.

A phone log will be kept by each delegated conservation district or Department application manager that details the name of the person contacted, the day and time of the conversation, and notes for all communications regarding the completeness and technical reviews. It is recommended that all logs be retained with the application file.

In the event the delegated conservation district or application manager is unable to contact the applicant by phone or e-mail before the completeness review deadline, the application manager will proceed in accordance with Section IIB.

10. If the applicant submits the requested information and the requested information meets the requirements for a complete application, proceed to Section IIA below.
11. If the applicant originally failed to submit the required application information, or if the submittal contents are not of sufficient soundness, or if the minor deficiencies were not addressed within the completeness review timeframe, proceed in accordance with Section IIB below.

If application is complete proceed to IIA; if the application is incomplete proceed to IIB.

IIA. Application Complete

1. If the permit application is complete, the delegated conservation district, (or regional office when the conservation district is not delegated), should send the

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completeness notification letter to the permit applicant. The letter will notify the applicant of their obligation to post a notice of the proposed project near the entrance to their premises and at the facility and the location where the discharge will take place, if the facility or location is remote from the premises. The Permit Decision Guarantee timeframe of 107 business days will be based upon the date of that letter.

2. The delegated conservation district should submit the following items to the appropriate regional office:

Completed entire GIF and NOI/application, a copy of the USGS 7.5 minute series quadrangle location map, the weekly permit activity report form, completeness checklist, municipal notification(s) and proof of receipt(s) for county and local government, one copy of the E&S plan, one copy of PCSM plan, copy of the PHMC Cultural Resources Notice and proof of receipt (only required if earth disturbance exceeds 10 acres), and the PNDI search receipt or clearance letter.

The conservation district will retain two copies of the E&S and PCSM plans. One copy is a working copy and the other is a clean copy to be used for public review if one is requested.

3. The regional office staff will enter the relevant permit application information into eFACTS using approved procedures and codes.
4. The Department will ensure that a public notice regarding the permit application is submitted to the Pennsylvania Bulletin within 5 business days of the receipt of the weekly permit activity report form.

IIB. Application Incomplete

1. In accordance with § 102.6 (c), the delegated conservation district will send the applicant the incompleteness review letter. This letter will note that the incomplete submission of the application voids the Permit Decision Guarantee process but the Permit Review Process procedures will be followed. Only one incompleteness letter will be sent. The applicant has 60 calendar days to provide the necessary information to make the application complete. If the applicant requests in writing to extend the time to respond beyond 60 days, the delegated conservation district or Department application manager will consult with the applicable permitting section chief to either grant or deny the request. The application manager will draft and sign the extension letter. Either action requires the application manager to respond to the applicant's request in writing including a specific due date for the applicant's response and language providing the applicant a notice that failure to address the deficiencies or respond by the due date will result in the application being

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determined to be incomplete and considered withdrawn.

If the applicant provides the necessary information to complete the application return to IIA. If the applicant does not submit the necessary information, continue with this section.

2. If the applicant does not submit the necessary information to make the application complete within the time frame specified including any extensions authorized in writing, the permit application will be considered withdrawn. When the delegated conservation district is processing the permit they will notify the Department regional office that the necessary information was not submitted within the established time frames. The program manager will notify the applicant that the permit application is withdrawn by sending the withdrawal of incomplete application letter.
3. If the application is withdrawn, the delegated conservation district or the Department will close the file and take no further actions. The fees associated with the filing of the permit will not be refunded. The Department application manager will enter the appropriate codes into eFACTS.

After an application is considered withdrawn, the applicant must submit a new application if they wish to proceed with the project.

After the application is considered complete, the reviewers should proceed to technical review. In this review, roles may vary for delegated conservation districts based on their level of PCSM delegation (or lack thereof). Where appropriate, actions have been defined as applicable to districts that are PCSM technically delegated, PCSM engineering delegated or not delegated for PCSM.

IIIA. Technical Review – Initial Plan Submittal

1. Non-PCSM Delegated Conservation District - The delegated conservation district that is not PCSM delegated will conduct a formal technical review of the E & S plan within 47 business days from the date the permit application is considered complete. Appropriate checklists shall be used to guide the technical review. If technical deficiencies exist in the E&S plan, the delegated conservation district will document the technical deficiencies in a letter attached to an e-mail to the Department application manager. This documentation of technical deficiencies will cite the statutory and regulatory obligation(s) that the applicant has failed to meet. The regional office will conduct a simultaneous review of the PCSM plan. Appropriate checklists shall be used to guide the technical review. Any technical deficiencies, including those identified by the delegated conservation district in the review of the E&S plan, should be documented in a technical deficiency letter to the applicant/owner and consultant which is prepared by the Department application manager, reviewed by the section chief and reviewed and signed by the regional

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office program manager. This documentation of technical deficiencies will cite the statutory or regulatory requirement(s) that the applicant has failed to meet. The letter will offer the applicant the opportunity to meet with the regional office and the conservation district to discuss the technical deficiencies. The letter will also include the requirement that revised plans should be submitted within 60 calendar days of the date of the technical deficiency letter. If the applicant requests in writing to extend the time to respond beyond 60 days, the delegated conservation district will consult with the applicable permitting section chief to either grant or deny the request. Either action requires the application manager to respond to the applicant's request in writing including a specific due date for the applicant's response and language providing the applicant a notice that failure to address the deficiencies or respond by the due date will result in the application being determined to be incomplete and considered withdrawn.

The revised E&S plan will be submitted to the conservation district and the revised PCSM plan to the regional office. This letter will note that the technical deficiencies in the application voids the Permit Decision Guarantee process but the Permit Review Process procedures will be followed. The Department application manager will enter the appropriate codes into eFACTS at the commencement of the technical review.

2. Technical Review PCSM Delegated Conservation District - If the delegated conservation district is PCSM delegated at the technical review level, the review of the PCSM plan should be completed within 30 business days of the date the permit application package has been considered complete. This review will be simultaneous with the E&S review, which must be completed in 47 business days. Any technical deficiencies that exist in either the E&S or PCSM plans should be documented in a letter attached to an e-mail to the Department application manager. The regional office will complete its PCSM engineering review in 17 business days after the conservation district has completed its PCSM technical review. Any technical deficiencies, including those identified by the delegated conservation district in the review of the E&S and PCSM plans, should be documented in a technical deficiency letter to the applicant/owner and consultant which is prepared by the Department application manager, reviewed by the section chief and reviewed and signed by the regional office program manager. This documentation of technical deficiencies will cite the statutory or regulatory requirement(s) that the applicant has failed to meet. The letter will offer the applicant the opportunity to meet with the regional office and the conservation district to discuss the technical deficiencies. The letter will also include the requirement that revised plans should be submitted within 60 calendar days of the date of the technical deficiency letter. If the applicant requests in writing to extend the time to respond beyond 60 days, the delegated conservation district will consult with the applicable permitting section chief to either grant or deny the

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request. Either action requires the application manager to respond to the applicant's request in writing including a specific due date for the applicant's response and language providing the applicant a notice that failure to address the deficiencies or respond by the due date will result in the application being determined to be incomplete and considered withdrawn.

The revised E&S plans and one copy of the revised PCSM plan should be resubmitted to the conservation district. The other two copies of the revised PCSM plan would go to the regional office. This letter will note that the technical deficiencies in the application voids the Permit Decision Guarantee process but the Permit Review Process procedures will be followed. If technical deficiencies exist, the Department application manager will enter the appropriate subtask into eFACTS.

3. Engineering Review PCSM Delegated Conservation District or Department - If the delegated conservation district is PCSM delegated at the engineering review level, or Department when conducting the lead evaluation of the permit application, the technical review of both the E&S plan and the PCSM plan will be completed within 47 business days of the date the permit application is considered complete. Any technical deficiencies that exist in the E&S and PCSM plans should be documented by the delegated conservation district or Department in a letter attached to an e-mail to the regional office. This documentation of technical deficiencies will cite the statutory and regulatory obligation(s) that the applicant has failed to meet. The technical deficiencies should be documented in a technical deficiency letter to the applicant/owner and consultant which is prepared by the Department section chief and reviewed and signed by the program manager. This documentation of technical deficiencies will cite the statutory or regulatory requirement(s) that the application has failed to meet. The letter will offer the applicant/owner and consultant the opportunity to meet with the regional office and the conservation district to discuss the technical deficiencies. The letter will also include the requirement that revised plans should be submitted within 60 calendar days of the date of the technical deficiency letter. If the applicant requests in writing to extend the time to respond beyond 60 days, the delegated conservation district will consult with the applicable permitting section chief to either grant or deny the request. Either action requires the application manager to respond to the applicant's request in writing including a specific due date for the applicant's response and language providing the applicant a notice that failure to address the deficiencies or respond by the due date will result in the application being determined to be incomplete and considered withdrawn.

The revised E&S and PCSM plans should be submitted to the conservation district. This letter will note that the technical deficiencies in the application voids the Permit Decision Guarantee process but the Permit Review Process procedures will be followed. If technical deficiencies exist, the Department application manager will enter the appropriate subtask into eFACTS.

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If there are no deficiencies after technical review, the application manager should proceed to make a permit decision (section IV.).

If there are technical deficiencies, continue to technical review – plan resubmittal (Section IIIB). Generally, one technical deficiency voids the Permit Decision Guarantee timeframes. If the applicant does not respond within the 60 calendar day timeframe, continue to technical review, no applicant response (Section IIIC).

If the applicant upon receiving the technical deficiency letter requests the elevated review process the Department application Manager will move to elevated review process (section IIID.)

IIIB. Technical Review – Plan Resubmittal

1. The Department application manager will coordinate the review of the revised plans to ensure that any revisions to the PCSM plan are also properly revised in the E&S plan or otherwise addressed and vice versa (revisions to E&S plan are correspondingly revised in the PCSM plans, if necessary). If the delegated conservation district is PCSM delegated, the Department section chief will ensure that the delegated conservation district also receives a copy of the revised PCSM plan. When revised plans are submitted, the Department application manager will enter the dates for the appropriate subtasks into eFACTS.
2. Non-PCSM Delegated Conservation District - The delegated conservation district that is not PCSM delegated will conduct a formal technical review of the resubmitted E & S plan within 22 business days from the date of the resubmittal. Appropriate checklists shall be used to guide the technical review. If technical deficiencies remain in the E&S plan, the delegated conservation district will document the technical deficiencies in a letter attached to an e-mail to the Department application manager. This documentation of technical deficiencies will cite the statutory and regulatory requirement(s) that the application has failed to meet. The regional office will conduct a simultaneous review of the PCSM plan. Appropriate checklists shall be used to guide the technical review. If after the second technical review any technical deficiencies still exist with either the E&S or PCSM plans the section chief and program manager will meet to review the application. After that meeting the Department may decide to (1) withdraw the application, (2) deny the application, or (3) proceed with the elevated review process.
2. Technical Review PCSM Delegated Conservation District - If the delegated conservation district is PCSM delegated at the technical review level, the review of the PCSM plan should be completed within 15 business days of the date of the resubmittal. This review will be simultaneous with the E&S review, which must be completed in 22 business days. Any technical deficiencies that remain in the both

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- the E&S and PCSM plans should be documented in a letter attached to an e-mail to the Department application manager. The regional office will complete its PCSM engineering review in 7 business days after the conservation district has completed its PCSM technical review. If after the second technical review any technical deficiencies still exist with either the E&S or PCSM plans the section chief and program manager will meet to review the application. After that meeting the Department may decide to (1) withdraw the application, (2) deny the application, or (3) proceed with the elevated review process.
4. 3. Engineering Review PCSM Delegated Conservation District or Department - If the delegated conservation district is PCSM delegated at the engineering review level, the technical review of both the E&S plan and the PCSM plan will be completed within 22 business days from the date of the resubmittal. Any technical deficiencies that remain in the both the E&S and PCSM plans should be documented in a letter attached to an e-mail to the Department application manager. If after the second technical review any technical deficiencies still exist with either the E&S or PCSM plans the section chief and program manager will meet to review the application. After that meeting the Department may decide to (1) withdraw the application, (2) deny the application, or (3) proceed with the elevated review process.

If the resubmitted plan is found to be technically adequate proceed to Technical Decision by the Conservation District (section IV).

If the resubmitted plan, is an incomplete submission, the application should be considered withdrawn; proceed to section IIIC and follow steps 2 and 3.

If the resubmitted plan contains technical deficiencies for any reason, and the application should be considered for permit denial; proceed to section VI.

If the resubmitted plan contains technical deficiencies for any reason, the application should go to the elevated review process; proceed to section IIID.

IIIC. Technical Review – No Applicant Response

1. If the applicant does not submit the necessary information to make the application complete within the 60 calendar day timeframe, the permit application will be considered incomplete and will be withdrawn.
2. The delegated conservation district will notify the Department section chief that the necessary information was not submitted within the established time frames. The Department section chief will prepare the withdrawal of technically deficient letter to notify the applicant/owner and consultant that the permit application is

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withdrawn. This letter will be reviewed and signed by the program manager.

3. If the application is withdrawn, the conservation district and the Department application manager will close the file and take no further actions. The fees associated with the filing of the permit will not be refunded. The Department application manager will enter the appropriate codes into eFACTS.

IIID. Elevated Review Process

When an applicant makes a request for an elevated review, or for applications that continue to be technically deficient, and for which the technical deficiencies have not been resolved satisfactorily within the established response timeframe, including any approved extension, will be subject to the elevated review process.

1. The delegated conservation district or the Department application manager will notify the program manager at the regional office. The Program Manager will notify the Regional Director of the elevated review, and arrange a time to discuss the details of the application and the noted deficiencies. The Program Manager and the Regional Director may contact the Bureau Director and/or the Deputy Secretary for advice or assistance. In addition, complex projects involving multiple permit applications with multiple deficiencies may require a face-to-face meeting of all staff involved, including the application manager and the appropriate delegated conservation district staff.
2. Staff will agree on a direction for final review of the permit application(s), which may include making a permit decision; having a face-to-face meeting with the applicant and the consultant(s); or having a telephone call with the applicant and the consultant(s) to discuss the remaining technical deficiencies. Department staff will prepare a written summary of the meeting or phone call documenting decisions agreed to at the meeting or during the phone call.
3. If the meeting results in an agreement to resolve the outstanding issues, the regional office will inform the applicant that all remaining technical deficiencies must be corrected and revised plans submitted within 10 business days of the date of the meeting. The Regional Director may provide the applicant with an additional 10 business days to respond. If resolution cannot be reached, the deficiencies must be elevated to the Bureau Director for review. The Bureau Director will provide direction on the major modification permit decision which may be advancing with denial of the permit application.
4. The Department application manager, in coordination with any additional staff, including appropriate conservation district staff, will conduct the necessary technical review of the resubmitted plans. The review will be completed within 5 business days of the date the revised plans were resubmitted. At the conclusion of this review, the major modification permit decision will be made by the Department.
5. If the applicant does not submit revised plans during the elevated review process, the

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Department will make a permit decision based upon the permit application information available.

If the decision is made to approve the major modification to the permit, go to section V.

If the decision is made to deny the major modification to the permit, go to section VI.

IV. Technical Recommendation by the Conservation District

1. Non-PCSM Delegated Conservation District or Technical Review PCSM Delegated Conservation District - If the E&S/PCSM plan is found to be technically adequate, the delegated conservation district will forward the following documents and information to the Department application manager:

Completed recommendation for permit action letter, completed E&S technical plan review checklist, two sets of the approved stamped E & S plans and narratives (one set will be sent to the applicant by the regional office; the region will retain one set). The district will retain the third set of plans.

2. Engineering Review PCSM Delegated Conservation District or Department - If the conservation district is PCSM delegated at the engineering review level and the PCSM plan is found to be technically adequate, the conservation district will forward the following documents and information to the regional office:

Completed recommendation for permit action letter, completed E&S technical plan review checklist, two sets of approved and stamped E&S plans, completed PCSM plan, engineering review checklist, two sets of the approved stamped PCSM plans and narratives (one set will be sent to the applicant by the regional office; the region will retain one set). The district will retain the third set of plans.

3. Once in receipt of these items from the delegated conservation district, the Department section chief and program manager will review the permit application and make a decision to either approve the major modification to the permit or deny the major modification to the permit.

If the decision is made to approve the major modification to the permit they should move to section V.

If they will be denying the major modification to the permit they should move to section VI.

V. Major Modification Permit Approval

1. The program manager will prepare the pertinent permit documents including any special conditions; sign the permit; prepare the permit issuance cover letter; and

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distribute the permit and copies of plans as follows:

To permit applicant (if there is more than one permittee, a copy of each of the following must be sent to each permittee):

Copy of the permit cover letter, copy of permit cover sheet, copy of permit and any special permit conditions, one set of stamped and approved E&S plans, one set of stamped and approved PCSM plans, copy of the Visual Site Inspection Report form, copy of the Permittee/Co-Permittee form, copy of the Notice of Termination

To the delegated conservation district:

Copy of the permit cover letter, copy of permit cover sheet, copy of permit and any special permit conditions, one set of stamped approved PCSM plans

To the plan preparer:

Copy of permit cover letter, copy of permit cover sheet

To the municipality:

Copy of permit cover letter, copy of permit cover sheet

To Central Office:

Copy of pages 1-11 of the NOI/application (may be submitted electronically)

2. As soon as the major modification to the permit is approved, the Department application manager will assure that the appropriate permit approval information is sent to the Pennsylvania Bulletin for public notice of permit approval.
3. The Department application manager will enter the disposition status and date for the permit authorization into eFACTS.

VI. Permit Denial

Permit applications will be denied if there are continuing technical deficiencies and for which a demonstration cannot be made that all applicable regulatory and statutory requirements have been met. The following process should be followed for permit denials:

1. After consultation with the delegated conservation district the DEP regional Office will send the permit applicant a major modification permit application denial letter which is reviewed by the section chief and signed by the regional office water program manager noting that the major modification to the

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- permit is denied. All permit fees submitted with the applications that are denied will be forfeited.
2. The Department application manager will enter the appropriate codes into eFACTS.
 3. If the applicant of a denied major modification permit application wishes to continue to pursue approval of the project, the applicant must submit a revised permit application following appropriate program requirements and procedures and will be considered a new application.

VII. Recordkeeping

The delegated conservation district will submit the monthly permit tracking form to the DEP central office at the end of every month. These forms may be mailed in or submitted electronically at the same address used for the NOI/application submittals.