

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

November 8, 2012

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 an 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 new 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

There are two types of pre-application meetings, formal and informal. Informal pre-application meetings are for those projects that are in the early planning stages and function as an educational tool for applicants; these meetings are voluntary. Formal pre-application meetings are for those projects that are ready to apply for a permit(s) and function as an opportunity to ensure all regulatory requirements are clearly articulated and Permit Decision Guarantee timeframes have been established. These meetings may be waived at the discretion of the Department and delegated conservation district.

IA. Informal Pre-Application Meeting

1. An applicant for an individual NPDES stormwater construction permit should contact the Department or delegated conservation district as soon as possible in the conceptual

planning stages of the project and request an informal pre-application meeting. This meeting should include the delegated conservation district and the regional office.

2. If the regional office was contacted by the applicant to schedule an informal pre-application meeting, the regional office will invite the delegated conservation district to attend. If the delegated conservation district was contacted by the applicant to schedule an informal pre-application meeting, the delegated conservation district will invite the regional office to attend.

3. At the informal pre-application meeting the Department or delegated conservation district staff should identify the type(s) of permits required for the project, an explanation of the permit application process and the interrelationship of the various permits, and provide an explanation of the Permit Decision Guarantee process and timelines.

4. It is useful, but not mandatory, for the Department or the district staff to remain available to the applicant throughout the development of the project details and technical design to ensure a thorough understanding of the plans by the Department and delegated conservation district staff, assure adherence to applicable regulatory and statutory requirements, and to gain insight into potential regulatory concerns and identify solutions.

IB. Formal Pre-Application Meeting

1. It is recommended that the applicant contact the regional office or delegated conservation district to schedule a formal pre-application meeting. The conservation district or the Department may recommend that a formal pre-application meeting be held. If the formal meeting is held, the meeting attendees may include the applicant, the applicant's consultant, the delegated conservation district, the regional director (if applicable), and representatives of all appropriate Department programs.

2. Department regional office and delegated conservation district staff will follow the Policy for Permit Coordination (Executive Order 2012-11, Document ID 021-2000-301) during the pre-application conference.

3. During the pre-application conference, the Department regional office or delegated conservation district staff should provide an explanation of the number and types of permits required for the project and provide the applicant with the Permit Decision Guarantee timeframes.

4. The Department regional office or delegated conservation district staff should complete the pre-application conference checklist during the pre-application meeting, and maintain a record of attendance.

5. The applicant's consultant should complete a summary of the meeting which will be verified by the conservation district and the Department.

6. The Department regional office will designate an application manager for the project. If the conservation district is delegated at the PCSM engineering review level, the application manager will be a conservation district staff person chosen by the conservation district manager.

8. The Department regional director will provide direction to the application manager on the priority of the permit application.

II. Application Completeness Review

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:

1. Upon receipt of an application, administrative/clerical staff will have a maximum 5 business days to process the application (ex. opening mail, date stamping, data entry, etc.). This step is prior to and not part of the 15 business day completeness review.
2. If a formal pre-application meeting was not held prior to application package submission, the conservation district and the regional office will meet 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).
3. Assign the permit application package a permit number
4. 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 for individual NPDES permits should be used to complete this review. If the application is complete proceed to Section IIA.
5. The delegated conservation district will deposit payment of the \$1,500.00 administrative filling fee for the individual NPDES permit to the appropriate district Clean Water Fund when the completeness review is completed.
6. 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 to ensure the Department has all the necessary information. The application manager may follow-up after the phone call with an email to the applicant and/or consultant.

A phone log will be kept by each conservation district or 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 conservation district or application manager is unable to contact the applicant by phone before the completeness review deadline, the application manager will proceed in accordance with Section IIB.

7. If the applicant submits the requested information and the requested information meets the requirements for a complete application, proceed to Section IIA below.
8. 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 IIIB 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 conservation district should send the permit application complete acceptance letter to the permit applicant. The district should copy the application manager on this letter. 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 or 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 conservation district should submit the following items to the appropriate regional office:

Completed GIF or NOI/application, a check for the \$100.00 disturbed acre fee, 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 PCSM plan, one copy of the riparian buffer waiver request (if applicable), PHMC information (copies of the Cultural Resources Notice and proof of receipt (only required if earth disturbance exceeds 10 acres), PNHP/PNDI filing proof

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 Department regional office will provide an e-mail confirmation to the delegated conservation district upon receipt of the disturbed acre fee payment.
4. The regional office staff will enter the relevant permit application information into eFACTS using approved procedures and codes.
5. As soon as the application is determined to be complete, the Department will ensure that a public notice regarding the submission of an application is submitted to the Pennsylvania Bulletin.

IIB. Application Incomplete

1. In accordance with § 102.6 (c), the conservation district will send the applicant the permit application incomplete letter. The district should copy the application manager on this letter. 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 conservation district or application manager 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.
2. When the conservation district has determined the permit application is not complete they will forward the following items to the regional office within 5 business days:
 - A photocopy of the first page of the NOI/application and the first page of the GIF and the check for the \$100 per acre disturbed fee.
3. The regional office will provide an e-mail confirmation to the delegated conservation district upon receipt of the disturbed acre fee payment.

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

4. If the applicant does not submit the necessary information to make the application complete within the time frame specified, 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 application manager will notify the applicant that the permit application is withdrawn by sending the permit application withdrawn letter.

5. If the application is withdrawn, the 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 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 technically delegated, engineering delegated or not delegated for PCSM.

IIIA. Technical Review – Initial Plan Submittal

1. 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 letter to the applicant/owner and consultant which is prepared by the Department application manager and reviewed and approved 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 23 business days of the date of the technical deficiency letter. The Department application manager will enter the appropriate codes into eFACTS at the commencement of the technical review.
2. 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 letter to the applicant/owner and consultant which is prepared by the Department application manager and reviewed and approved 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 23 business days of the date of the technical deficiency letter. If technical deficiencies exist, the application manager will enter the appropriate subtask into eFACTS.
3. 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 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 in a letter sent by the conservation district to the applicant/owner and consultant, with a copy sent to the regional office. 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 23 business days of the date of the technical deficiency letter. If technical deficiencies exist, the delegated conservation district will inform the application manager, who will enter the appropriate subtask into eFACTS.

If there are no deficiencies after technical review, the application manager should proceed to make a permit decision of either permit approval or permit denial (Section IV or V).

If there are technical deficiencies that have not been resolved, 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 23 day timeframe, continue to technical review, no applicant response (Section IIIC).

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 at the technical review level, the Department application manager 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. 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. Any technical deficiencies, including those identified by the delegated conservation district in the review of the E&S plan, should be documented in a letter to the applicant/owner and consultant which is prepared by the Department application manager and reviewed and approved by the regional office program manager. This documentation of technical deficiencies will cite the statutory or regulatory requirements(s) that the applicant has failed to meet. The letter will inform the applicant/owner and consultant of the continuing technical deficiencies and will inform that applicant/owner and consultant that the project will now continue to the elevated review process. The application manager will enter the appropriate codes into eFACTS.
3. 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 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. 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 letter to the applicant/owner and consultant, which is prepared by the Department application manager and reviewed and approved by the regional office program manager. This documentation of technical deficiencies will cite the statutory or regulatory obligation(s) that the application has failed to meet. The letter will inform the applicant/owner and consultant of the continuing technical deficiencies and will inform that applicant/owner and consultant that the project will now continue

to the elevated review process. The Department application manager will enter the appropriate codes into eFACTS.

4. 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, including those identified by the delegated conservation district in the review of the E&S and PCSM plans, should be documented in a letter attached to an e-mail to the Department. Any technical deficiencies should be documented in a letter to the applicant/owner and consultant which is prepared by the Department staff and reviewed and approved by the regional office program manager. This documentation of technical deficiencies will cite the statutory or regulatory requirements) that the application has failed to meet. The letter will inform the applicant/owner and consultant of the continuing technical deficiencies and will inform that applicant/owner and consultant that the project will now continue to the elevated review process. The Department will enter the appropriate codes into eFACTS.

If technical deficiencies remain, the application manager should continue with the elevated review process (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 23 business day timeframe, the permit application will be considered incomplete and will be withdrawn. The conservation district will notify the Department application manager that the necessary information was not submitted within the established time frames. The Department application manager will notify the applicant/owner and consultant that the permit application is withdrawn by sending the permit application withdrawn letter.
2. 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

Applications that continue to be technically deficient, and for which the deficiencies have not been resolved satisfactorily within the established response timeframe, will be subject to the elevated review process.

1. The 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. A meeting will be scheduled with the applicant by the regional office. The application manager and the delegated conservation district will attend.
2. If the meeting results in an agreement to resolve the outstanding issues, the regional director will inform the applicant that all remaining technical deficiencies must be corrected within 10 business days.
 3. The Department application manager, in coordination with any additional staff (to include conservation district staff) will conduct the necessary technical review of the resubmitted materials. The regional office will complete its review within 5 business days. At the end of the 15 business days for the elevated review period, the permit decision will be made by the Department based upon the permit application information available.

*Recommendations for permit approval should continue to permit approval (Section IV).
Recommendations for permit denial should continue to permit denial (Section V).*

IV. Permit Approval

1. If the E&S 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 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. 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 record of decision, completed PCSM plan technical 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 application manager and program manager will:

Prepare the pertinent permit documents including any special conditions; sign permit; prepare permit issuance cover letter; distribute 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)

4. As soon as 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.
5. The Department application manager will enter the disposition status and date for the permit authorization into eFACTS.

V. 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. Send the permit applicant a permit application denial letter noting that the permit is denied. All permit fees submitted with the applications that are denied will be forfeited. This letter will be drafted by the application manager and reviewed by the program manager.
2. The Department application manager will enter the appropriate codes into eFACTS.

If the applicant of a denied 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.