

SOP_WET_WOE_04
Standard Operating Procedure (SOP) for
Chapter 105 Water Obstruction and Encroachment Program
Review of General Permits not covered by Permit Decision Guarantee Policy by
Department Staff
July 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 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 processing and review of registrations for select Chapter 105 General Permits (see Table 1) processed by the Department. **This SOP does not apply to BDWM-GP-5 processing (see SOP_WET_WOE_02).** The SOP is organized sequentially by activities that will be completed. The functional roles that are responsible for the activity are identified with the name of the activity. This SOP is intended to comply with the Policy for Implementing the Department of Environmental Protection Permit Review Process and Permit Decision Guarantee (PDG Policy, 021-2100-001).

The **BDWM-GP-5, BWM-GP-11 and BDWQP-GP-15** are currently the only general permits that are included under the Permit Decision Guarantee time frame; however, the goals it to process all general permits according to the listed time frames and SOP.

Table 1 Chapter 105 General Permits

General Permit Number	Description	PDG?	Business Days
BDWW-GP-1	Fish Habitat Enhancement Structures	N	43
BDWW-GP-2	Small Docks and Boat Launching Ramps	N	43
BDWW-GP-3	Bank Rehabilitation, Bank Protection and Gravel Bar Removal	N	43
BDWM-GP-4	Intake and Outfall Structures	N	43
BDWM-GP-6	Agricultural Crossings and Ramps	N	43
BDWM-GP-7	Minor Road Crossings	N	43
BDWM-GP-8	Temporary Road Crossings	N	43
BDWM-GP-9	Agricultural Activities	N	43
BDWW-GP-10	Abandoned Mine Reclamation	N	43

The applicable processing business days are the maximum length of time to reach a permit decision. In many cases, reviews will or should be completed in fewer days than the maximum days listed in this SOP. When the reviews are completed prior to the listed business day timeframe or other time frames as established under this SOP, appropriate permit actions should be taken at that time. The General Permits listed in Table 1 are outside the parameters of the Permit Decision Guarantee and there is no obligation

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by the reviewer to reach a permit decision within the established timeframe. There is no guarantee to the permit applicant and no penalty to the reviewer if the permit decision is not made within the timeframe. This is not an excuse or a reason to allow registration packages to pile up; all registration packages including those that are void of PDG must be processed in a timely manner and assigned a priority commensurate with the type of activity being permitted. However, these registration acknowledgements are subject to the Permit Review Process outlined in the policy regardless of their inclusion in the Permit Decision Guarantee.

Pre-application Process

The PDG Policy encourages applicants to request pre-application meetings with the Department. Even though these GPs are not covered by the PDG policy, the goal is to process all general permits similarly. The following general guidelines should be used by program staff (administrative, engineering, environmental, application manager and Section Chief) when deciding which projects should require a pre-application meeting and which ones may not benefit from such meetings.

- Pre-application meetings are critical and highly recommended when large scale, multi-permitted facilities are involved and when a project meets certain criteria such as spanning multiple counties or regions or if federal permit coordination will be required.
- Pre-application meetings should be held with applicants and/or consultants that are not familiar with the permit requirements and application process.
- Program staff can use discretion with normal routine types of projects (i.e. bridge or culvert replacement, small road crossings, utility line crossings), applicants and/or consultants that are familiar with permit requirements and have a good history of complete applications. These types of projects may not require pre-application meetings unless unusual circumstances are involved such as threatened or endangered (T&E) species, species of special concern, exceptional value resources (i.e. streams or wetlands), etc.

The Department will establish the meeting date, time, and location (i.e. in office or field). The applicant will be informed that they are responsible for coordinating any external agency involvement such as PA FBC, US FWS, ACOE, etc. Program staff should recommend agencies to include based upon the particulars of the project. Pre-application meetings that involve large complex projects that involve multiple DEP programs should be coordinated according to the Permit Coordination Policy (021-2000-301). The applicable Section Chief will discuss project coordination with the Program Manager and Assistant Regional Director when necessary

Completeness Review (completed within 10 business days, includes Steps I., II. and III. below)

I. Preliminary Data Management and Fee Processing (Administrative Staff)

A registration form that contains multiple registration requests is considered one registration package for the purpose of processing requests for acknowledgement. When new registration requests are received, administrative staff (administrative or clerical) will:

- A. Enter the date for the registration received date in the DEP USE ONLY block on the registration form;
- B. Assign the permit number according to the program guidelines for permit number assignment and record in the DEP USE ONLY block on the registration form; (**Note:** separate general permit registrations should not be assigned permit numbers or processed separately if the activities are covered under an individual permit application, *use SOP_WET_WOE_01 for processing*).

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- C. Assign the appropriate initial application manager (aka lead reviewer);
- D. Process any application fees, if applicable, according to program guidelines.

Attach the tracking sheet to the file with a copy of the applicant's check for any required permit fees and process the registration fees, if applicable, according to program specific (PCM_WET_NCEC_13_003) and department wide internal guidance Deposit of Fees, Fines, Penalties and Other Revenue (OAM-1000-01, Management Directives 305.5, 305.11, and 305.12) and using eFACTS abbreviated user guides when applicable. **Registration packages cannot be returned as incomplete for insufficient fees. (Note: PCM_WET_NCEC_13_003 provides clarification on processing permits with incorrect fees.)**

- E. Submit the registration package to the Program Manager.

II. Coordination, Prioritization and Assignment of Application Manager (applicable permit Section Chief)

Once Step I is completed by administrative staff, the Section Chief will:

- A. Assign an application manager (previously known as "lead reviewer" in eFACTS) and technical staff (engineer and/or environmental) to conduct the Eligibility Review of the registration, if applicable unless previously done under Step I.E.
 - The Section Chief may delegate the assignment of technical staff to the application manager.
 - The application manager may be one of the technical staff or a supervisor.
- B. Prioritize the application in accordance with the guidelines provided by the Department for implementing the "Permit Review Hierarchy" contained in DEP's Policy (021-2100-001). Chapter 105 permits may be considered necessary for the protection of public health, safety or the environment from imminent threats, or be considered necessary for economic development projects that create jobs and enhance communities depending upon the individual project circumstances.
- C. Submit the registration package to the Application Manager.

III. Determination of Completeness (Application Manager)

Once Step II. is completed, the Application Manager will:

- A. The begin date for the completeness review is the date Steps I and II were completed from date of receipt. Enter the date on the Registration Form under Section I.A Completeness Review: Begin Date.
- B. The application manager will review the registration for any terms and conditions (when applicable) where the general permit may not apply. If the project does not qualify for general permit coverage the GP registration will considered withdrawn. Proceed to Step VI.C.
- C. The application manager will utilize the corresponding authorization type completeness checklist to ensure all required items have been submitted and utilize any program specific guidelines for evaluating that the items are adequate and sufficient for conducting an Eligibility Review. See Appendix A for specific authorization completeness checklist(s). The application manager should use any applicable program guidelines to evaluate the adequacy of submissions.

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- D. If the registration package is complete, enter the date on the Registration Form under Section I.A. Completeness Review: End Date and check the complete box and proceed to Step IV. If it is not complete, then proceed to Step III.D below. (**Note:** A Completeness Letter is not sent for GPs as it is for JPAs and EAs. The GP Acknowledgement letter addresses the Completeness, Eligibility and Acknowledgment processes.)
- E. If the registration package is incomplete and the deficiencies are determined to be insignificant (i.e., an item that in the application manager's judgment can be corrected before the 10-day Completeness Review Task has expired), the application manager will contact the applicant by phone to explain the deficiency and offer the opportunity to submit the necessary materials informally before the Completeness Review deadline expires to make the registration package complete. The application manager may or may not (at the application manager's discretion) follow up the phone call with an email to the applicant and/or consultant.

A phone log will be kept by each 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 registration package file until the permit is issued, or otherwise a database or spreadsheet be used and made accessible to allow others to check latest correspondence in case the application manager is out of the office.

In the event the application manager is unable to contact the applicant by phone before the 10-day Completeness Review has expired, the application manager will proceed with Step III.F. below.

After the necessary materials have been received (receipt by email or fax is acceptable except when original signatures, plans or seals are needed), and assuming the registration package can then be considered complete, the application manager will enter the date on the Registration Form under Section I.A. Completeness Review: End Date and check the complete box, then proceed to Step IV. If the submission does not correct the original insignificant deficiencies, the application manager will proceed with Step III.F. below.

- F. If the applicant originally failed to submit the required information, or if the submittal contents are not adequate or sufficient, or if the insignificant deficiencies were not addressed within the 10 day Completeness Review time frame, the application manager will enter the date on the Registration Form under Section I.A. Completeness Review: End Date, check the incomplete box and draft an Incompleteness Review (Incompleteness) Letter (per standard letter template) for the applicable permitting Section Chief's signature. SEE EXCEPTION below.

The Incompleteness Letter must cite the statutory or regulatory obligations for all deficiencies that the application has failed to meet. In accordance with Chapter 105.13a, the applicant shall have 60 calendar days (**not business days**) to complete the application and address any completeness deficiencies.

Also within the 60 calendar days the applicant may request an extension in writing, to respond to the deficiencies beyond the sixty (60) calendar days. Review and consider the request and notify the applicant in writing of the decision either to grant or deny, including a specific due date to respond if the extension is granted. Time extensions shall be in accordance with 25 Pa. Code §105.13a(b). (See III.G.)

- The Incompleteness Letter should be drafted per the "02_Incompleteness_Review" standard letter template available on the [program's internal website](#).

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- Please draft the letter carefully, looking for places where you need to insert information (example “<<date>>”, “<<APPLICANT NAME>>”, or “[List of Items...]”), choose the appropriate provided term (example “[application / registration]” or choose to include optional language per italicized instructions (example “[*where appropriate...*]”).
- Please remove all inappropriate text, instructions and punctuation.
- These letters should all use “Department” or “DEP” (not “Conservation District”) and “registration” (not “application”).

Enter the date on the Registration Form under Section I.A. Completeness Review: Incomplete Date; and check the “NO” status box. **Only one Incompleteness Review Letter will be sent.** In most cases the review will stop here and not proceed to the Technical Review (Step IV.).

EXCEPTION:

In accordance with the Policy for Pennsylvania Natural Diversity Inventory (PNDI) Coordination During Permit Review and Evaluation (021-0200-001) (PNDI Coordination Policy), two options are available to permit applicants for handling PNDI coordination in conjunction with DEP’s permit application review, sequential review and concurrent review. (See PNDI Coordination Policy for more details.)

- *Sequential Review* is the traditional and recommended review process for T&E species in which the permit applicant runs the PNDI search and completes all coordination with the appropriate jurisdictional agencies prior to submitting the permit application. The applicant will include with its application, both a PNDI Receipt and a clearance letter from the jurisdictional agency if the PNDI Receipt shows a Potential Impact to a species.
 - If all items are present, and assuming the entire application can then be considered complete, the application manager will then proceed to Technical Review (Step IV.).
- *Concurrent review* is when DEP allows Technical Review of the permit concurrently with the T&E species consultation with the jurisdictional agency. The applicant must still supply a copy of the PNDI Receipt with its permit application. The application should be submitted to DEP along with the PNDI Receipt, a completed PNDI Form and a U.S.G.S. 7.5 minute quadrangle map with the project boundaries delineated on the map. The PNDI Receipt should also be submitted to the appropriate jurisdictional agency according to directions on the PNDI Receipt. While DEP is commencing its Completeness and Technical Review of the application, the permit applicant will engage in any consultation with the jurisdictional agencies as indicated on the Receipt.
 - If all items are present and the PNDI Receipt indicated a Potential Impact, the application will be considered complete and if this is the only deficiency will proceed to Technical Review (Step IV.) where it will be considered technical deficient.

If an application is submitted with the completed Pennsylvania Natural Diversity Inventory (PNDI) Project Planning and Environmental Review Form (8100-FM-FR0161) with the intent that DEP is to complete the run, then there are two (2) processes as well.

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- If there are no Potential Impacts and no other deficiencies, the entire application will be considered complete and proceed to Technical Review (Step IV.).
 - If there is a Potential Impact the person conducting the review must contact the applicant and explain the options:
 - Continue on through the process under the concurrent review and be considered technically deficient, not qualify for PDG and the possibility of return without fees if not addressed in accordance with 105.13a, or
 - DEP can return the application including fees and the applicant can resolve the Potential Impact and resubmit at a later date for a sequential review.
 - In the event that the applicant cannot be reached within a reasonable time period as expressed in D. above, return the application to the applicant as incomplete because it cannot be determined which type of review the applicant would like. Document and place in the file folder the reason why along with a record of all attempts to contact the applicant.
- G. If the applicant submits the requested information within the 60 day deadline and the requested information meets the requirements for a complete application, the application manager shall proceed to Step IV. (**Note:** A Completeness Letter is not sent for GPs as it is for JPAs and EAs. The GP Acknowledgement letter addressed Completeness, Eligibility and Acknowledgment.)
- H. If the applicant requests in writing to extend the time to respond beyond 60 calendar days, the 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 deemed incomplete and considered withdrawn. The application manager will draft an Extension Letter (per standard letter template) for the applicable permit Section Chief's signature to the applicant. Time extensions shall be in accordance with 105.13(b) and shall not exceed 60 calendar days.
- The Extension Letter should be drafted per the "Ch105_07_Extension" standard letter template available on the [program's internal website](#).
 - Please draft the letter carefully, looking for places where you need to insert information (example "<<date>>", "<<APPLICANT NAME>>", or "[List of Items...]"), choose the appropriate provided term (example "[application / registration]" or choose to include optional language per italicized instructions (example "[*where appropriate...*]").
 - Please remove all inappropriate text, instructions and punctuation (example "**(Choose one of the following 2 paragraphs)**") and the un-chosen paragraph).
 - These letters should all use "DEP" (not "Conservation District") and "registration" (not "application").
- I. If the applicant fails to respond within 60 calendar days, or the established time extension due date or the information submitted is not sufficient to address the deficiencies (application manager must still wait the 60 calendar days or time extension period), the application manager will notify the applicant in writing that the application is incomplete and considered withdrawn in accordance with 105.13a. The application manager will draft a Withdraw of Incomplete Application (Withdrawal) Letter (per standard letter template) for the applicable permit Section

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Chief's review and Program Manager's signature to the applicant. **The application fee will not be returned.**

- The Withdrawal Letter should be drafted per the "03-05-Withdrawal_Of_Incomplete_Application" standard letter template available on the [program's internal website](#) and sent via Certified Mail.
 - Please draft the letter carefully, looking for places where you need to insert information (example "<<date>>", "<<APPLICANT NAME>>", or "[List of Items...]"), choose the appropriate provided term (example "[application / registration]" or choose to include optional language (example "[if the application/registration has received a time extension:...]").
Note: when an extension has been granted, delete "<<date>>" and include the NEW date and ", including any applicable extension(s)"
 - Please remove all inappropriate text, instructions and punctuation.
 - These letters should all use "registration" (not "application"), and "completeness" (not "eligible" or "technical").
 - *This same letter can be used for the withdrawal of incomplete applications during the Technical Review.*
- J. If the applicant chooses to withdraw the registration package (**fees will not be returned**) and resubmit the package, following program requirements and procedures, the Department will treat the resubmitted package as a new registration package, including submission of any applicable fees and the registration package processing would start at Step I.A.

Technical Review (includes Steps IV., V., VI., VII. and VIII. below).

IV. Eligibility Review (Application Manager and applicable Technical Staff)

Please note that the Eligibility Reviews performed for general permits are not as extensive or as in-depth as those performed for an individual permit. These reviews should be abbreviated and be focused to specific areas of the project to ensure the proposal meets the terms and condition of the general permit.

Once Step III is completed by the application manager, the application manager will:

- A. Enter the date on the Registration Form under Section I.B. Eligibility Review: Begin Date;
- B. Determine PA SPGP category and follow standard operating procedures for coordinating the processing of PA SPGP, check the applicable boxes in the DEP USE ONLY block on the registration form concerning the PA SPGP authorization;
- C. The application manager will conduct the Eligibility Review in accordance with program guidelines and regulatory requirements related to the specific authorization type, including coordination of the Submerged Lands License Agreement (SLLA) requirements when applicable. Check the applicable box in the DEP USE ONLY block on the registration form concerning SLLA requirements. The identification of submerged lands should occur as early in the eligibility review as possible to provide the maximum amount of time for processing of the SLLA. The standard operating procedures for SLLA processing (SOP_WET_WOE_005) will be followed when applicable. If the registration package is complete and deemed eligible, the application manager will ensure that either a General Permit (GP) Acknowledgement Notification (Acknowledgement) Letter (per standard letter template) is generated for the District Manager's signature to the

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applicant, then proceed with Step V. If the registration package is missing information, continue to Step IV.D. below.

- The GP Acknowledgement Notification should be drafted per the “Ch105_08_GP_Acknowledgement_Notification” standard letter template available on the [program’s internal website](#).
- Please draft the letter carefully, looking for places where you need to insert information (example “<<APPLICANT NAME>>”), choose the appropriate provided term (example “[DEP / the District]”).
- Please remove all inappropriate text, instructions and punctuation (example “[*if the application is subject to PDG:...*]”).
- These letters should all include “DEP” (not “Conservation District”).

D. If the registration package is missing information that would otherwise allow the registration to be deemed eligible and the registration acknowledged, the application manager will if necessary, transmit an Eligibility Deficiency (ED) Letter (per standard template):

1. In the event, upon a review of the registration information, the application manager determines that information beyond the scope of the Completeness Review is not available or otherwise there are technical problems with the application or proposals therein, the application manager will make a determination on whether the deficiency is significant or non-significant. In general, non-significant deficiencies are those that can be corrected quickly by the applicant (e.g., one day) so that there is only a minimal processing delay.
2. If the deficiencies are determined to be insignificant, the application manager will contact the applicant and/or the project consultant by phone and request a response by the close of the next business day. A phone log will be maintained by the application manager to record the results of all such conversations. A follow-up email may be transmitted at the application manager’s discretion.
3. If a) the insignificant deficiencies are not corrected by the timeline requested, b) multiple phone calls to the applicant and consultant fail to establish communication, or c) the application manager determines that the deficiencies are significant, the application manager will prepare a Eligibility Deficiency (ED) Letter for the applicable Section Chief’s signature. The number of ED Letters will be limited to one in most circumstances, unless the project is determined to be a complex project. The letter will request a response within **60 calendar days**. At the discretion of the application manager, offer an opportunity to meet and discuss the deficiencies. The application manager will enter the date of the letter on the Registration Form under Section I.B. Eligibility Review: Incomplete Date.
 - The ED Letter should be drafted per the “04_Technical-Eligibility_Deficiency” standard letter template available on the [program’s internal website](#).
 - Please draft the letter carefully, looking for places where you need to insert information (example “<<date>>”, “<<APPLICANT NAME>>”, or “[List Deficiencies...]”), choose the appropriate provided term (example “[application / registration]” or choose to include optional language per italicized instructions (example “[*where appropriate:...*]”). (**Note:** Only for BDWM-GP-5 Utility Stream Crossings (see SOP_WET_WOE_02), the ED Letter will inform the applicant that the Permit Decision Guarantee is no longer applicable.)

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- Please remove all inappropriate text, instructions and punctuation (see **Note**: above).
 - These letters should include “Department” or “DEP” (not “Conservation District” or “the District”), “registration” (not “application”), and “eligible” (not “technical”).
4. If the applicant responds to the ED letter within 60 calendar days, the application manager will enter a date on the Registration Form under Section I.B. Eligibility Review: Response Date corresponding to the date the submission was received, review the submission, assuming the response addresses the concerns raised in the ED letter, enter the date on the Registration Form under Section I.B. Eligibility Review: End Date when the review is completed and proceed to Step V. If the submission does not address the concerns in the ED letter, continue to Step IV.G.5. below.
 5. If the applicant fails to respond to the ED letter within 60 calendar days, or the response fails to address the issues raised in the ED letter, the application manager will draft a Withdrawal of Incomplete Application (Withdrawal) Letter (per standard letter template) for the applicable permitting Section Chief’s review and Program Manager’s Program Manager’s signature to the applicant. Enter the date on the Registration Form under Section I.B Technical Review: End Date, check the technically deficient-denied box, and proceed to Step V.
 - The Withdrawal Letter should be drafted per the “03-05_Withdrawal_Of_Incomplete_Application” standard letter template available on the [program’s internal website](#) and sent via Certified Mail.
 - Please draft the letter carefully, looking for places where you need to insert information (example “<<date>>”, “<<APPLICANT NAME>>”, or “[List of Items...]”), choose the appropriate provided term (example “[application / registration]” or choose to include optional language per italicized instructions (example “[*if the application/registration has received a time extension: ...]*”).
Note: when an extension has been granted, delete “<<date>>” and include the NEW date and “, including any applicable extension(s)”.
 - Please remove all inappropriate text, instructions and punctuation.
 - These letters should all use “Department” or “DEP” (not “Conservation District” or “the District”), “registration” (not “application”), and “eligible” (not “technical”).
 - *This same letter can be used for the withdrawal of incomplete applications during the Completeness Review.*

V. Final Decision (Program Manager)

The Program Manager will complete the following tasks upon receipt of the final registration package:

- A. Briefly review the completed registration forms and information and General Permit (GP) Acknowledgement Notification (Acknowledgement) Letter or Withdrawal Letter;
- B. On the Registration Form under Section I.C. Decision Review: Sign, date and check the applicable Disposition Status.

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- C. Sign the GP Acknowledgement Letter or Withdrawal Letter, return the final signed documents to administrative staff and proceed to Step VI.;
 - The Program Manager may delegate signing authority to the Section Chief.

VI. Final Permit Processing (Administrative Staff)

Administrative staff will complete the following tasks upon receipt of the final, signed registration package and GP Acknowledgement Letter or Withdrawal Letter:

- A. Enter the acknowledgement or withdrawal date, whichever is applicable, in the DEP USE ONLY block on the registration form;
- B. Make and mail copies to the recipients with a copy to ACOE, PFBC, and other agency or staff as directed in program delegation and guidelines; and
- C. Transmit the registration package/permit files to the regional file system.