

DEP Chapter 102 Pilot Program for Individual NPDES Permits

May 1, 2024

Introduction

The Pennsylvania Department of Environmental Protection (DEP) is introducing a Pilot program in select counties to evaluate new procedures for improving the quality of applications received and accelerating the review of Chapter 102 Individual NPDES Permit applications. Chapter 102 General NPDES Permit Notices of Intent (NOIs) are not part of the Pilot program. The Pilot program will start on May 1, 2024 and will end when specified by DEP on its [construction stormwater website](#). The list of counties where the Pilot program will be offered is listed below.

- Allegheny
- Beaver
- Bucks
- Chester
- Lebanon
- Lehigh
- Luzerne
- Monroe
- Montgomery
- York

Pilot Procedures

The following summarizes the policies and procedures for the Pilot program. DEP has prepared a [Standard Operating Procedure \(SOP\)](#) document for the Pilot program which contains more detailed information.

- 1. Number of Applications** – A limit of three (3) applications per calendar quarter (3 months) will be accepted on a first come, first served basis for each county, unless the CCD agrees to accept more than three. Applicants may submit only one application each quarter for this Pilot program.
- 2. Fees** – There will be no change to the permit administrative filing fee (\$1,500) or disturbed acreage fee (\$100/acre) under this Pilot. If the CCD has an approved expedited review policy and/or fee schedule, the CCD may charge an expedited fee based on this policy. Otherwise, the standard CCD fee schedule would apply; however, these CCDs have the option to charge an amount that is higher than their schedule's base fee under this Pilot with the approval of

their Board of Directors. The fees will be clarified at the required pre-application meetings (see below).

3. **Eligibility** – Acceptance into the Pilot program is at the general discretion of DEP/CCD. Projects which propose green infrastructure and/or riparian buffers¹ will receive priority. DEP/CCD will make every effort to identify the eligibility of a project during the pre-application meetings described below; however, a final eligibility determination will be made upon receipt of the application.

The following types of applicants, applications, and projects will generally be ineligible for the Pilot:

- a. Applications for renewals, amendments, and transfers (new projects only).
- b. Applicants that are exempt from paying Chapter 102 permit application fees.
- c. Projects where 1) Managed Release Concept (MRC) stormwater control measures (SCMs) are proposed unless all DEP-established design standards are met; 2) gravity wells (i.e., stormwater injection wells) are proposed; 3) alternative erosion and sediment control (E&S) best management practices (BMPs) or post-construction stormwater management (PCSM) SCMs that are not identified on [DEP's approved list](#) are proposed; and 4) alternative design standards for the stormwater analysis required by 25 Pa. Code § 102.8(g) are proposed.
- d. Projects that require review by DEP's Oil & Gas program.
- e. Projects that propose to disturb more than 50 acres and/or create more than 10 acres of new impervious surface in a single phase.
- f. Applicants or operators that have been subject to a formal enforcement action or have been assessed a civil penalty by DEP/CCD within the last 5 years.
- g. Applications that may be expected to have significant public interest in which a public hearing is likely to be held.

In addition, if a site is known to be “contaminated” (i.e., would not qualify for General NPDES Permit coverage due to soil pollutant concentrations), all studies, sampling, and investigations are expected to be completed prior to submission of a permit application in order for DEP/CCD to consider participation of the project in the Pilot program.

4. **Use of a Licensed Professional** – A licensed professional (as defined at 25 Pa. Code § 102.1) must prepare the PCSM Plan for the project. The licensed professional must participate in pre-application meetings (see below). The applicant must commit to utilizing the licensed professional to conduct oversight of critical stages of PCSM Plan implementation.
5. **Pre-Application Meetings** – Prior to submission of the application, the applicant and their licensed professional (at a minimum) must participate in two pre-application meetings with the CCD (virtual or in-person based on availability). Applicants must submit the [Chapter 102 Pre-Application Meeting Request Form](#) to coordinate the first meeting. Check the appropriate box requesting participation in the Pilot program.

¹ Applicants are encouraged to follow the guidance contained in the [draft Pennsylvania Post-Construction Stormwater Management Manual](#) when proposing riparian forest buffers.

- a. The first meeting will be an *informal pre-application meeting* with the CCD to discuss eligibility for the Pilot program and an overview of the project.
- b. The second meeting will be a *formal pre-application meeting* with the CCD and at least one DEP staff member.
 - i. A final draft of the complete Individual NPDES Permit application including the E&S and PCSM Plans must be presented and discussed at the meeting.
 - ii. DEP/CCD staff will spot check the NPDES permit application materials as a preliminary evaluation of Pilot eligibility, completeness, and technical adequacy.
 - iii. The Application Manager(s) will be assigned at this meeting.
 - iv. The application must be submitted within 22 business days of the date of the formal pre-application meeting or another formal pre-application meeting must be held (unless waived by DEP/CCD).

DEP/CCD will make a preliminary determination on eligibility for the Pilot program by the conclusion of the formal pre-application meeting, to be confirmed upon receipt of the application.

NOTE: If the project may require authorization from multiple DEP programs the applicant is encouraged to first visit DEP's website to request a DEP Permit Application Consultation Tool (PACT) meeting prior to scheduling the formal pre-application meeting.

6. **Checklist** – The applicant must complete and submit the [Pilot application checklist](#) with the application. The items needed for a complete Pilot application are the same as those for a complete Individual NPDES Permit application with the following exceptions:
 - a. Additional CCD fees may apply.
 - b. Clearance letters from jurisdiction agencies are needed with the application for any potential impacts identified on a Pennsylvania Natural Diversity Index (PNDI) receipt. There will be no PNDI concurrent review option for the Pilot program.
 - c. Municipal and County Notification forms must be signed by the municipality and county, respectively. Proof of receipt is not sufficient for the Pilot program.
 - d. PCSM Plan Drawings and PCSM Module 2 must be sealed and signed by a licensed professional.
 - e. The applicant must provide documentation (e.g., contract or written attestation) that the licensed professional who prepared the PCSM Plan will be retained to conduct oversight of critical stages of PCSM Plan implementation.

In addition, the following must be submitted with an application if identified as a requirement during pre-application meetings:

- Sampling, studies, and other investigations required by DEP/CCD for contaminated sites.
- A completed Pre-Development Site Characterization Spreadsheet to determine the adequacy of site characterization work if requested by DEP/CCD. This spreadsheet has been posted to [DEP's E&S Resources website](#).

7. **Submission** – CCDs may require the submission of electronic copies of Pilot applications and plans or may allow hard copy (paper) copies. The CCD will inform applicants of their preference. When a CCD is not delegated for PCSM, the complete application and plans must be submitted to DEP and the CCD at the same time. DEP can only accept Pilot applications electronically. DEP’s preferred method is [DEP’s Public Upload Tool](#). However, all fees should be paid by check or money order and sent to the CCD (unless the CCD has an online fee system). When a CCD is delegated for PCSM, the applicant does not need to submit the Pilot application to DEP. Note that applicants may not submit Pilot applications through DEP’s [Chapter 102 ePermit System](#).
8. **Acceptance** – The Pilot submission will undergo an initial check for acceptance into the Pilot by the CCD within seven (7) business days of receipt based on the eligibility items described above. After coordination between CCD and DEP, the applicant will be notified via email of acceptance or denial into the Pilot program. If denied, the email will identify the reason for denial. Alternatively, DEP or CCD may notify the applicant during the formal pre-application meeting of the decision. If denied, the application will be processed using the standard review process for Individual NPDES Permits.
9. **Review** – If accepted into the Pilot program, the application will be reviewed as follows:
 - a. For projects in counties where the CCD has PCSM delegation, the CCD will conduct a concurrent completeness and technical review within 47 business days. If there are significant deficiencies, the CCD will email a deficiency letter to the applicant and provide 22 business days for resubmission. If there are no significant deficiencies (or the significant deficiencies have been resolved upon resubmission), the CCD will prepare and issue a draft permit following coordination with DEP for the publication of a public notice in the *Pennsylvania Bulletin*.
 - b. For projects in counties where the CCD does not have PCSM delegation, the CCD will immediately forward the application and PCSM Plan to the DEP Regional Office (unless the applicant has already submitted these to DEP) for concurrent completeness and technical reviews within 47 business days. If there are significant deficiencies, DEP will email a deficiency letter to the Applicant and provide 22 business days for resubmission. If there are no significant deficiencies (or the significant deficiencies have been resolved upon resubmission), DEP will prepare and issue a draft permit for the publication of a public notice in the *Pennsylvania Bulletin*.

NOTE: If a public hearing is deemed by DEP to be necessary due to public interest/comments, the application will be entered into the standard review process at that time and the applicant will be notified during the scheduling of the public hearing.

10. **Deficiencies** – If a Deficiency Letter is issued, a response letter detailing the revisions made must be provided by the Applicant with the resubmission.
 - a. Resubmission must be provided within 22 business days, with an optional 10-business day extension upon request.

- b. Review of the resubmission will occur within 22 business days of receipt.
- c. If there are continued significant deficiencies following receipt of a resubmission, the application will be **returned** to the Applicant. If returned, the submitted fees and permit number can be applied to a resubmission within six (6) months. Proof of fee payment is required by the applicant at the time of submission. The resubmission would be reviewed under the standard review process and no longer part of the Pilot program. If no resubmission is received within six (6) months, the application is considered withdrawn by the Applicant.

11. Permit Issuance – For projects in counties where the CCD has PCSM delegation, if deficiencies have been resolved, the permit will be signed and issued by the CCD Manager and the final action will be published by DEP in the *Pennsylvania Bulletin*. For projects in counties where the CCD does not have PCSM delegation, if deficiencies have been resolved, the permit will be signed and issued by the DEP Regional Office and the final action will be published by DEP in the *Pennsylvania Bulletin*.

Timeline

The table below compares the time, in business days, for each major task involved in the review of Individual NPDES Permit applications in the Pilot program and under the standard review process.

Task	Pilot Program Timeline <i>(possible extensions add 10 business days)</i>	Standard SOP Timeline <i>(possible extensions add 40 business days)</i>
Acceptance	7 Business Days	5 Business Days
Completeness	N/A	15 Business Days
Response Due	N/A	45 Business Days
Technical	47 Business Days	47 Business Days
Response Due	22 Business Days	22 Business Days
Review Resubmission	22 Business Days	22 Business Days
Elevated Review	N/A	15 Business Days
Decision	Issue/Return	Issue/Denial
TOTAL	98 Business Days*	171 Business Days*

* The time to complete the decision task is variable and depends on the time it takes to address applicant and/or public comments. The total business days in this table does not consider the time for the decision task.