Standard Operating Procedure (SOP)[1] for Clean Water Program
New and Reissuance Individual Site Permit Applications
for Beneficial Use of Biosolids
SOP No. BPNPSM-PMT-008
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Version 1.1

This SOP describes the procedures by which the Clean Water Program will process applications for new and reissuance (renewal) individual site permits for the beneficial use of biosolids. The authorization type covered by this SOP is "PABIS" (Individual Site Permit for Beneficial Use of Biosolids by Land Application).

This SOP is intended to comply with DEP's Policy for Implementing the Department of Environmental Protection (Department) Permit Review Process and Permit Decision Guarantee (021-2100-001) ("PDG Policy"). Only certain types of applications are subject to the Permit Decision Guarantee (PDG) described in the PDG Policy. New and renewal individual site permit applications **ARE NOT** part of the PDG.

General Policies

1. In general, the biosolids coordinator ("application manager") will not approve the land application of biosolids under a General Permit (PAG-07, PAG-08 or PAG-09) where one or more of the following apply:

   a. Land application is proposed in a watershed classified as Exceptional Value (EV) in Title 25 Pa. Code Chapter 93.

   b. The application manager determines that the proposed land application will be more appropriately controlled under an individual site permit due to unusual site conditions, or otherwise an individual site permit is considered necessary to ensure compliance with the Clean Water Act, the Clean Stream Law, or the Solid Waste Management Act and rules and regulations promulgated thereunder.

   c. Land application is proposed by persons with a significant history of non-compliance with prior permits issued by DEP or the applicable state authority.

2. Where application in EV watersheds is proposed, individual site permits will not be issued unless the applicant already has General Permit coverage or an individual permit for generation.

3. Individual site permits may be required when it is determined that site conditions are unsuitable and would not comply with the General Permit coverage (e.g., a farm site with slopes greater than 25 percent).

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[1] **DISCLAIMER**: The process and procedures outlined in this 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.

4. The biosolids that will be land applied under an individual site permit must be covered by a General Permit (PAG-07 or PAG-08) or an individual generator permit.

5. Individual site permits may only be issued to a single generator or preparer of biosolids.

6. An individual site permit is required for land application in an EV watershed even if the generator or preparer of biosolids already has approval to land apply through an individual generator permit.

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

When applications are received, administrative staff will promptly:

A. Create the authorization record in eFACTS.

1. Select the proper auth type code ("PABIS") and verify that the correct fee was submitted ($500).

2. Prepare the physical check payment for transmission to the regional business office following Management Directive OAM-1000-01, and enter the fee payment against the authorization in eFACTS, unless the client is fee exempt. A copy of the check will be made and placed in the application file.

3. Select the proper application type using the appropriate regional organization code. Where the client previously was covered by a General Permit and must now apply for an individual permit or the decision is otherwise made to convert the permit to an individual permit, the application type should be NEW.

4. Enter a 9-digit program-specific ID for the application as follows:

   • The first five digits will be "PABIS."
   • The sixth through ninth digits will be a regional designator, as follows: SERO – 0001-2199, NERO – 2201-3499, SCRO – 3501-4700, NCRO – 4801-6099, SWRO – 6101-8299, and NWRO – 8301-9899. Numbers will be selected sequentially by order of authorization.

5. Associate the proper client and site to the project/authorization. If necessary, create the client, site, client/site relationship, at least one subfacility (SF) and the primary facility (PF) Use a PF Type of "Beneficial Land Use," a PF Kind of "Agriculture," and an SF Type of "Parcel." The PF Other ID must match the program-specific ID on the application screen.

6. Enter the date the application was received ("Recvd") and the date administrative staff creates the authorization ("Admin") into eFACTS' Application Screen.

7. If required by eFACTS to create the authorization, select the lead reviewer.

8. Select the Master Auth or set the current authorization to be the Master Auth, as appropriate.

9. Create a subtask of "COMPL" (B/E Completeness Review) under the Completeness Review task in eFACTS, and enter a start date that corresponds to the date the application was received.

B. Enter consultant information.

If a consultant is identified on the application, select the appropriate client or otherwise create the consultant as a client on the Application Screen.

C. Enter or otherwise review and update PF Details.

1. Update PF Mailing Address (client address) and Location Address (site address) in accordance with the application, as necessary.

2. Ensure the Client ID and Other ID of the PF are identical to those for the authorization, otherwise update the PF.

II. Completeness Review (Application Manager)

Completeness reviews of individual site permit applications will be completed by the application manager in the regional office that covers the county in which the applicant is located.

Application managers should finish the Completeness Review within 10 business days of DEP's receipt of an application.

When the application manager receives the application from administrative staff, the application manager will:

A. Review the application for completeness and overall technical adequacy. A complete and technically adequate application includes the following, not including the fee that is addressed in Step I:

1. Original individual permit application (signed and notarized) and 2 copies for in-state or 7 copies for out-of-state applicators.

2. Completed Landowner Consent form.

3. Natural Resource Conservation Service map of the site.

4. Pennsylvania Natural Diversity Inventory results.

5. Example of how application rates will be calculated.

6. Background soil chemical analytical results for the constituents in Table 1 of the application.

7. Copy of Erosion and Sedimentation Control Plan or Farm Conservation Plan.

8. Summary of animals and manure nutrient balance calculations.

9. List of adjacent landowners.

10. Certified mail receipt indicating that the municipality and county conservation district where the site is located were notified.

11. In addition, the application manager will verify that the generator or preparer of biosolids is already covered under a General Permit or an individual generator permit.

    NOTE – In general, if the applicant submits an older application form that is not the most recent, the application manager may deem any information that is missing an insignificant or

significant deficiency, at the application manager's discretion. If the application is not denied as a result, the application manager will notify the consultant or applicant that a more recent version of the application is available for future use.

B. Follow the procedures contained in the SOP for Management of Late NPDES Permit Renewal Applications (BPNPSM-ENF-001) if the application is for a permit renewal and was received late.

C. Complete the following data management tasks in eFACTS:

1. Create, or otherwise review and edit, all Parcel (PAR) SFs listed in the application. Enter SF latitude and longitude.

2. Review and edit the PF latitude and longitude, using the coordinates reported on the application or the central point of the site.

3. Link all applicable PAR SFs to the authorization record.

D. If none of the criteria in A.1 – 11 are found to be deficient, the application manager will proceed to Step III H. No "completeness letter" will be issued.

E. If the application is incomplete and the deficiencies are determined to be insignificant (i.e., an item that in the application manager's judgment can be corrected within one business day), the application manager will contact the applicant (or the applicant's authorized representative) <u>by phone</u> to explain the deficiency and offer the opportunity to submit the necessary materials informally by the end of the next business day to make the application 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.

NOTE – The application manager should attempt to communicate with the applicant directly. Where this fails, the application manager may attempt to communicate with the consultant, if any.

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. All phone logs will be retained with the application file during and following permit issuance, or otherwise a database or spreadsheet will be used and made accessible to allow others to check latest correspondence for a case if the application manager is out of the office.

In the event the application manager is unable to contact the applicant or consultant by phone within 5 business days, the application manager will proceed to Step III F (for new applications) or Step III G (for renewal applications). 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 application can then be considered complete, the application manager will then proceed to Step III H. If the submission does not correct the original insignificant deficiencies, the application manager will proceed to Step III F (for new applications) or Step III G (for renewal applications).

F. For **new** applications, if the applicant fails to submit the requested information by the next business day following a phone call (or multiple attempts to contact the applicant or consultant by phone), or if the deficiencies are determined to be significant, the application manager will prepare a letter that denies the application, for the Program Manager's signature. The template in NMS found at *Letters – Application Denial Letter* will be used. The eFACTS authorization record will be closed out by using the disposition code "Denied." A subtask of "DENC" (Application Incomplete – Denied) will be entered into eFACTS against the Completeness Review

Task, with start and end dates corresponding to the date of the letter. The application fee will not be returned. A new application fee will be required as part of a resubmission.

G. For **renewal** applications, if the applicant fails to submit the requested information by the next business day following a phone call (or multiple attempts to contact the applicant or consultant by phone), or if the deficiencies are determined to be significant, the application manager will transmit a letter identifying the deficiencies. The template in NMS found at *Letters – Renewal Application Incomplete Letter* will be used. The application manager will enter a subtask of "SDN" (Send Deficiency Notice/Receive Response) into eFACTS with a start date corresponding to the date of the letter.

H. Enter an end date for the "COMPL" subtask, when the application is deemed complete.

III. Technical Review and Preparation of Draft Permit (Application Manager)

Following completion of the Completeness Review, the application manager will evaluate site conditions, determine facility-specific permit conditions and prepare the permit documents.

A. Enter a "DR" (Decision Review) subtask in eFACTS under the Technical Review task, with a start date corresponding to the date following the determination that the application is complete.

B. Complete a site visit and document the following on the "Administrative and Technical Review Checklist" for individual site permits:

   a. Slopes generally do not exceed 25%.

   b. Conservation Plan is being implemented.

   c. Setbacks will be maintained:

   a. 100 feet from perennial streams.
   b. 100 feet from exceptional value wetlands.
   c. 33 feet from intermittent streams.
   d. 11 inches above seasonal high water table.
   e. 3.3 feet above regional groundwater table.
   f. 100 feet from the edge of sinkholes.
   g. 300 feet from occupied dwellings.
   h. 300 feet from a water source.

   d. Proper postings are or will be in place.

   e. Proposals to store biosolids on-site meet applicable regulations.

   f. Soils analyses document that levels of pollutants in soils are and will continue to be below cumulative pollutant loading rates (CPLRs).

   g. Verify that adjacent landowners have been notified.

C. If necessary, transmit a technical deficiency letter.

   1. In the event, upon a detailed technical review of the application, 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

insignificant. In general, insignificant 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 <u>by phone</u> 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 Technical Deficiency (TD) Letter. The number of TD Letters will be limited to one in most circumstances, and will be issued prior to development of the draft permit. The letter will request a response within 15 business days or a longer period of time at the application manager's discretion (as long as it does not exceed the processing deadline in eFACTS). The application manager will enter a subtask of "SDN" (Send Deficiency Notice/Receive Response) into eFACTS with a start date corresponding to the date of the letter.

4. If the applicant responds to the TD letter within 15 business days or the alternative schedule, the application manager will enter an end date for the "SDN" subtask in eFACTS corresponding to the date the submission was received, review the submission and, assuming it addresses the concerns raised in the TD letter, proceed with Step III D. If the submission does not address the concerns in the TD letter, return to Step III C.1.

5. If the applicant fails to respond to the TD letter within 15 business days or the alternative schedule, or if the response fails to address the issues raised in the TD letter, the application manager will enter a subtask of "ELEV" (Elevated Review Process) and brief the Section Chief on the circumstances.

6. If following the Elevated Review Process the decision is to deny the application, the application manager will enter a "DENT" subtask (App Technically Deficient – Denied) into eFACTS, using start and end dates for the "DENT" subtask corresponding to the date of the decision, enter end dates for the "SDN" and "ELEV" subtasks, and prepare a letter that denies the application for the Program Manager's signature. The authorization will be closed in eFACTS using the disposition code "Denied."

D. Prepare the draft permit documents and issue the draft permit.

1. Application managers or administrative staff will use the template for individual site permits to develop the draft permit. The template can be found in the Bureau of Point and Non-Point Source Management's network folder at:

   \\pa.lcl\epshares\sm\Planning_&_Permitting\Biosolids

2. Application managers or administrative staff will develop a draft permit cover letter.

3. Application managers will develop a posting for the PA Bulletin and provide it to administrative staff.

4. Administrative staff or the application manager (regions may decide) will complete the following:

      a. A start date for the subtask "DP" will be entered in eFACTS for the Technical Review Task. The start date is the date of permit issuance.

      b. One or more copies of the complete draft permit package, consisting of the cover letter, draft permit, and draft permit notice for applicant posting will be made for mailing to the applicant and consultant, as applicable. The copy with the original signature will be mailed to the applicant. One copy will be retained for the case file.

E. Review applicant and public comments.

The 30-day comment period begins on the date the notice is published in the PA Bulletin.

1. The application manager will review comments received from the applicant (or the applicant's consultant) and decide whether the draft permit should or may be modified to address the comments. The application manager will consult with the Operations Chief, Central Office and regional counsel, as necessary. If the permit will be issued, the applicant's comments will be addressed in the final permit cover letter. In general, Central Office should be contacted for assistance where comments concerning the standard language of the permit are made unless the application manager has experience in addressing similar comments.

2. The application manager will review comments received from the public. In general, if the application manager, Section Chief or Program Manager determine that there is "significant public interest" in holding a hearing, the application manager will coordinate with the regional community relations coordinator to schedule a public hearing and prepare a PA Bulletin notice to announce the hearing. The subtask "PH" will be used in eFACTS to document the public hearing and enter a start date corresponding to the date the need for a public hearing was determined. Following the hearing and receipt of the hearing transcript, the application manager will prepare a Comment-Response document, attach it to the final issuance or denial letter, and copy all commentators on the letter. An end date will be entered into the "PH" subtask in eFACTS corresponding to the final permit issuance date. All commentators and the applicant will receive a copy of the Comment-Response document.

If public comments are received and a hearing is not held, the application manager will review the comments and decide whether the draft permit should or may be modified to address the comments. All public comments received will be responded to in writing as part of a Comment-Response document that is issued with the final approved permit or denial letter. The applicant and commentators will be copied on the Comment-Response document.

3. Application managers may not modify the standard language of the permit unless Central Office agrees with the modification so that a change can be made to the statewide template.

F. Decide whether to redraft the permit.

If the application manager decides to 1) make permit conditions more stringent or 2) make permit conditions less stringent where the application manager is aware there is public interest in the permit, a revised draft permit will be prepared and issued with a new public notice in the PA Bulletin.

G. Prepare final permit documents following the public comment period.

1. Application managers will enter an end date for the "DP" subtask 30 days following publication in the PA Bulletin.

2. If there are unresolved violations associated with the applicant or site that could, in the application manager's, Section Chief's and/or Program Manager's judgment, be addressed

most effectively through issuance of the permit to require implementation of measures designed to achieve compliance, permit issuance may proceed despite the unresolved violations.   Otherwise the permit should be held until compliance issues are resolved, and a subtask of "NC" (Non-Compliance Prohibits Final Decision) should be entered into eFACTS.

3. The application manager will make any final edits to the individual site permit and apply effective and expiration dates to the first page.

    a. For new permits, the effective date will be the date of issuance and the expiration date will be five years minus one day from the effective date.

    b. For reissued permits, the effective date will be the day after the expiration date of the current permit, and the expiration date will be five years minus one day from the effective date.

4. The application manager will prepare a final cover letter.

5. The application manager will prepare the PA Bulletin notice that identifies DEP's final decision on the application.

6. The final permit package will be assembled and provided to either 1) the Section Chief, for final review or 2) the Program Manager, at regions' discretion.

IV. Final Decision (Program Manager)

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

A. Review the final permit documents.

B. Sign the final permit cover letter and the first page of the permit document if the Program Manager is in agreement with the content, or otherwise return the package to the application manager for edits.

C. Submit the final, signed permit package to administrative staff or the application manager (at regions' discretion).

V. Final Permit Processing (Administrative Staff or Application Manager)

Administrative staff or the application manager will complete the following tasks upon receipt of the final, signed permit package:

A. Enter effective and expiration dates for the permit into eFACTS.

B. Enter an end date for the "DR" subtask in eFACTS corresponding to the issuance date.

C. Issue the authorization in eFACTS.

D. Make copies, and mail the copies to the applicant, consultant, and other interested parties as applicable. Final permits will not be issued via Certified Mail.

E. Transmit the case files to the regional file room.

Version History

Date	Version	Revision Reason
7/16/2013	1.1	Updated Section III to indicate that incompleteness letters will be sent to permittees if a renewal application is significantly deficient.
11/9/2012	1.0	Original