Standard Operating Procedure (SOP)[1] for Clean Water Program
New and Reissuance Pesticide Individual NPDES Permit Applications
SOP No. BPNPSM-PMT-005
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This SOP describes the procedures by which the Clean Water Program will process applications for new and reissuance (renewal) individual pesticide NPDES permits. The authorization type covered by this SOP is "IPEST" (NPDES Individual Pmt Pesticides).

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 pesticide individual NPDES permit applications **ARE NOT** part of the PDG.

Pesticide individual NPDES permit applications may or may not be accompanied by a joint permit application under Chapter 91.38, in which both the PA Fish and Boat Commission (PFBC) and DEP must approve issuance of the permit. Chapter 91.38 permits are required for any direct application of herbicides, algicides or fish control chemicals to waters of the Commonwealth. If a joint Chapter 91.38 permit is required, the authorization will be created in eFACTS and the SOP for Joint Chapter 91.38 Permits will be followed.

Central Office will review individual pesticide applications for projects spanning multiple counties and will follow this SOP.

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

For decision-making with respect to data management activities, the reader is referred to the eFACTS Program-Specific Guidance for 92a NPDES Authorizations, Facilities and Fees for detailed guidance.

When applications are received, administrative staff will promptly:

A. Create the authorization record in eFACTS.

1. Select the proper auth type code. For renewals, ensure the auth type code matches the primary facility (PF) fee category.

   In general, administrative staff will check the fee category in eFACTS or use the NMS query at *Permits – Authorizations – Which Auth Type to Use* (which displays the eFACTS fee category) to determine the proper auth type code. If the application identifies a fee category that does not match the fee category in eFACTS, administrative staff will request assistance from the Permits Chief to resolve the discrepancy.

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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.

If it is determined that eFACTS contains the wrong fee category, or otherwise the fee category has changed, administrative staff will contact Central Office to change the fee category in eFACTS.

NOTE – Only the following clients are exempt from Chapter 92a permit application fees: DEP, EPA, PFBC, DCNR, PennDOT, Amtrak and Port Authorities. Any other applicant requesting a fee exemption must be referred to the Central Office Bureau of Regulatory Counsel for review.

NOTE – For Chapter 92a authorizations, the selected auth type must match the fee category of the linked PF to allow issuance of the authorization.

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. Where the fee has not been submitted, treat it as an underpayment in accordance with the Management Directive.

3. Select the proper application type (this SOP covers only NEW and RENEW), 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. 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 PF. Assign the proper fee category to the PF.

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

6. If required by eFACTS to create the authorization, select the lead reviewer as the Permits Chief. If the Permits Chief identifies the application manager at this step, the assigned application manager may be selected for the lead reviewer.

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

8. 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 NOI, as necessary, including phone numbers and email addresses.

2. Update the PF Kind to "Industrial Waste" as necessary.

3. Update the SIC or NAICS code for the PF, as necessary, and identify one SIC and/or NAICS code as the "Primary" code (for SIC code, use 0851 where forest canopy control is the use

pattern, 0782 where weed control is the use pattern, and 4959 where mosquito control or other use patterns are specified).

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

D. Push Master Auth to NMS (if not done so previously), unless the current auth is the Master.

   If the current auth is not the Master Auth, ensure the Master Auth linked to the current auth has been pushed to NMS already (otherwise, push the Master Auth to NMS).

E. Mail a complete copy of the application to Erie County Health Department (ECHD), Allegheny County Health Department (ACHD), or Delaware River Basin Commission (DRBC) if applicable, unless administrative staff is aware that the applicant mailed a copy directly to those agencies.

II. Coordination and Prioritization (Permits Chief)

Once Step I is completed by administrative staff, the application will be given to the Permits Chief. The Permits Chief will:

A. Determine whether coordination with other applications is required. If this is the case, the Permits Chief will note on the application file or a permit tracking sheet so that the application manager is aware of needed coordination.

   NOTE – For individual pesticide applications, determine whether a joint Chapter 91 permit is required for the use of algicides, herbicides and fish control chemicals directly in waters of the Commonwealth. If a joint permit is required, locate the PA Fish and Boat Commission's (PFBC's) hard copy approval and attach it to the application, or otherwise check PFBC's database to see whether PFBC has approved the permit. If a joint permit is required and the application is not available, contact PFBC to determine whether an application has been received. The Permits Chief will enter a "CRR" subtask (B/E Coordinated Application Required) into eFACTS until DEP receives the application from PFBC (or otherwise the permit has been approved by PFBC according to their database).

B. Prioritize the application in accordance with the "Permit Review Hierarchy" contained in the PDG Policy. The Permits Chief will note on the application file or a permit tracking sheet the hierarchy number as contained in the Policy.

C. Assign an application manager (i.e., "lead reviewer") to the application unless this has been done previously. The Permits Chief will enter the name of the application manager into eFACTS for the authorization unless administrative staff has already completed this step.

D. Optionally, route a copy of the application or a permit tracking sheet to Operations staff for a determination of non-compliance issues that may affect permit issuance.

E. Notify the regional Late Application Coordinator if the application is for a permit renewal and was submitted late.

III. Completeness Review (Application Manager)

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

When the application manager receives the NOI from the Permits Chief, the application manager will:

A. Review the NOI for administrative completeness and overall technical adequacy. A complete and technically adequate individual pesticides application includes the following, not including the fee that will be addressed in Step I:

1. Three (3) copies of the completed, signed General Information Form (GIF) (1300-PM-BIT0001).

2. Three (3) copies of the completed, signed application.

3. Treatment areas identified on topographic map(s).

4. A Pesticide Discharge Management Plan (PDMP).

5. A complete Anti-Degradation Module for those treatment areas in HQ or EV watersheds.

6. No errors that are considered significant, at the discretion of the application manager, which may include but are not limited to unclear or incorrect maps, discharge point information, and BMPs.

   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, one Discharge Point (DP) subfacility (SF) for each treatment area, unless there are multiple treatment areas on or near the same water body, in which case one SF may be created for each water body. Use the mid-point of the treatment area for the latitude and longitude. Snap the DP to the NHD using the NHD Locator Tool.

2. Review and edit the PF latitude and longitude, using the coordinates reported on the application or otherwise the mid-point of the largest treatment area.

3. Select, if necessary, the Type of Discharge ("Pesticides") and enter the Design Flow ("0") for each DP.

4. Link the applicable SFs to the authorization record.

5. Push the authorization from eFACTS to NMS. If the authorization cannot be pushed to NMS and if the problem(s) cannot be resolved by the application manager, the application manager will first work with administrative staff to resolve the problem(s) and then contact Central Office Division of Operations, Monitoring and Data Systems if administrative staff cannot resolve them.

D. If none of the criteria in A.1 – 6 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.

   If the renewal application is satisfactorily corrected prior to the expiration date, the application manager will issue an administrative extension letter using the NMS template at *Letters – Administrative Extension Letter*. If the renewal application is not corrected prior to the expiration date, the application manager will notify the regional Operations Section for possible enforcement.

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

IV. Technical Review and Preparation of Permit (Application Manager)

Following completion of the Completeness Review, the application manager will review the application further for technical adequacy and the need for any additional conditions and prepare the permit documents. Applications will be reviewed in order of priority; in the event of a conflict, the matter will be resolved by the Permits Chief.

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

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. In general, verify the proposed doses on the application are in accordance with the product labels or instructions.

C. If copper sulfate or chemicals that, in the opinion of regional biologists, warrant caution when used directly to HQ/EV waters are proposed, ensure that the Anti-Degradation module includes a thorough analysis of alternatives.

D. For applications directly to water, determine whether there are any public water supplies downstream within 5 miles of the point of application. If yes, the application manager will look at the product label or instructions to determine restrictions in the vicinity of water supplies. The application manager will specify those restrictions in the NPDES permit (Part C). In general, if there are public water supplies within 5 miles, apply a condition in the NPDES permit that notification to the water supplier is required at least 24 hours in advance of treatment, unless it is determined that sufficient dilution exists or otherwise the product will not reach the intake.

E. Apply any other conditions to the individual NPDES permit that the application manager believes are pertinent based on the product label or instructions. If the product or an active ingredient has a federal MCL/MCLG and a water supply intake exists less than 5 miles downstream, application managers may require monitoring at or above the intake following the pesticide application unless it is determined that sufficient dilution exists or otherwise the product will not reach the intake.

F. Review the Anti-Degradation module.

   1. Check the general information section for completeness (applicant name, treatment area no., water body name(s), pesticide name(s), target organism(s), active ingredient(s)).

   2. If the applicant has checked the "grandfathered" box, verify the applicant's proof that the pesticide application existed prior to the water body being designated as special protection (HQ or EV). Proof may include previous permits, pesticide management plans, and other dated records provided they contain sufficient information to demonstrate that pesticide application practices have not changed over time (same chemical(s), treatment areas and dosage rates). Contact Central Office WQS to verify the designation date of the water body.

   3. The "Public Health and Environmental Benefit" section is not required to satisfy Pennsylvania's anti-degradation policy, but the information is helpful in establishing the basis for the pesticide use.

   4. Review the non-discharge alternatives section. Determine whether the applicant has adequately demonstrated that non-discharge alternatives are not cost-effective and/or environmentally sound and that a pesticide must be used. The applicant must consider all environmentally sound and cost effective options. Analysis is not complete if all options have not been considered and utilized to the extent practicable; DEP may recommend additional

options for consideration. The applicant should discuss all non-discharge practices that are currently being used in conjunction with, and prior to, pesticide use. The discussion should explain how various non-discharge alternatives are selected for use and, ultimately, the factors that trigger the use of pesticides. Applicants should list specific thresholds, criteria and other factors that are used to determine when pesticides are necessary.

5. The applicant should address each of the concerns within the ABACT section for each pesticide used – confirm that it is the best option available to minimize impacts on non-target organisms and that the minimum effective dose is being used. If available, applicants should reference peer-reviewed, published research and literature to support their use of pesticides.

G. 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 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 non-significant, 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 Technical Deficiency (TD) Letter using the NMS template at *Letters – Technical Deficiency 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 IV L. If the submission does not address the concerns in the TD letter, return to Step IV I.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 prepare a pre-denial letter using the NMS template at *Letters – Pre-Denial Letter*. The application manager will prepare a PA Bulletin notice for the Special Notices section that indicates the tentative decision to deny the application. The PA Bulletin notice and pre-denial letter will contain the "statement of basis" (see 40 CFR § 124.7), i.e., the technical reason(s) for tentatively deciding to deny the application. The pre-denial letter and PA Bulletin notice will be mailed to the permittee via Certified Mail.

7. Following the 30-day comment period after publication in the PA Bulletin, and assuming the applicant has not addressed the technical deficiencies, the application manager will deny the application by entering 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, entering end dates for the "SDN" and "ELEV" subtasks, and preparing a letter that denies the application using the NMS template at *Letters – Application Denial Letter*. The authorization will be closed in eFACTS using the disposition code "Denied."

H. Prepare the fact sheet.

1. At a minimum, all fact sheets for individual permits will contain (see 25 Pa. Code § 92a.53):

   a. A brief description of the type of facility or activity being permitted.

   b. The type and quantity of wastewater or pollutants evaluated in the permit.

   c. Documentation that the applicable effluent limitations and standards including a citation of same are considered in development of the draft permit.

   d. Documentation that applicable water quality standards will not be violated.

   e. A brief summary of the basis for the draft permit limitations and conditions including references to applicable statutory or regulatory provisions.

2. Application managers will run the template found at *Fact Sheets – Pesticides*. Any information that is missing on the first page will be manually entered into the fact sheet template and into the appropriate location in eFACTS. The application manager will manually enter a brief written summary of the review in the block on the first page.

3. At this time, application managers will also run the NMS Query at *Violations – eFACTS – Open Violations for Client by Permit No.* to determine whether there are any unresolved violations associated with the client that will affect issuance of the permit (per CSL Section 609). If there are unresolved violation(s), they will be documented in the fact sheet. Review of the application will proceed, but the application manager will identify the violation(s) in the draft permit cover letter and indicate that the application may not be issued as a final permit if the violation(s) are not resolved.

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

Mail a complete copy of the application to EPA Region 3. The application should be placed in the mail, if possible, a few days prior to the physical issuance of draft permits to coordinate arrival of the application with the receipt of the NMS email that notifies EPA of the electronic transfer of a draft permit through NMS. The application is the only hard copy information that will be mailed to EPA; all other relevant permit information will be transmitted electronically through NMS.

1. Application managers will run the template found at *Individual Pesticides – Individual Pesticides Permit* to generate the permit document, including Annual Report.

   The application manager may manually enter site-specific Part C conditions.

   NOTE – Where decisions are made at a regional level to use specific Part C language in all permits of a certain type, and the language is not in NMS, the Permits Chief will notify Central Office of the language so that a standardized condition may be loaded into NMS, following receipt of statewide feedback, for use by all regions.

2. Application managers will run the template found at *Letters – Individual NPDES Draft Permit Cover Letter* to serve as the cover letter for the draft permit. The application manager will review the letter carefully to ensure that correct and appropriate facility names, abbreviations, salutations, and other information from eFACTS are used and make edits as needed.

   If the NMS query identifies unresolved violations, the application manager will select the optional paragraph named *Draft Permit Letter 3*, and manually enter information on the unresolved violations in the letter. This places applicants on notice that DEP may not be able to issue the final permit until the violations are resolved.

   NOTE – If there is a PNDI conflict noted in the application, the application manager will include language in the draft permit cover letter that PNDI conflicts must be resolved before the final permit will be issued.

   Other language may be added to the letter at the discretion of the application manager.

3. Application managers will run the template found at *PA Bulletin Notices – Draft Permits - Pesticides* to serve as the public notice for the applicant to post near the entrance to their premises.

4. These documents, along with the fact sheet, will be printed and be provided to the Permits Chief. The application manager will sign the draft permit cover letter.

5. The Permits Chief will review the fact sheet to ensure general conformance with the regulations and the content of this SOP. The Permits Chief will sign the fact sheet if the Permits Chief is in agreement with the content, or otherwise return the package to the application manager for edits. After the fact sheet is signed, the Permits Chief will provide the permit package to administrative staff or the application manager for copying and data management.

   NOTE – Application managers may not issue draft permits until the Permits Chief signs the fact sheet.

6. Administrative staff or the application manager 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 draft permit issuance.

   b. All documents that will be issued as draft to the applicant will be set to a status of "Draft" and disposition of "Issued (Mailed)" in NMS. Documents that are not issued to the applicant will be set to a status of "Draft" and disposition of "Complete."

7. The application manager will determine whether the applicant will receive a hard copy or electronic version of the draft permit package. In general, if there is an email address listed for the client on the GIF, the draft permit package should be sent electronically to the client. The consultant(s) for the project, if any, should receive a copy of the electronic transmission. Where applicable, DRBC, ECHD, ACHD and the PA Fish and Boat Commission may be copied on the email.

   a. If a decision is made to transmit the draft permit package electronically to the applicant, all documents associated with the package should be transmitted electronically (i.e., one component of the package should not be emailed while others transmitted in hard copy).

b. If the package will be transmitted electronically, the application manager or administrative staff will open the draft permit cover letter, fact sheet, public notice for posting, and draft permit document in NMS, save these documents as PDF to a local drive, and then close the Word documents in NMS (select File – Save As – PDF, then Back to NMS). A "DRAFT" watermark should be applied to the electronic draft permit document, which should then be removed for the final permit.

   NOTE – A signature indicator ("/s/") or a signature graphic should be placed in signature blocks for the electronic versions of draft permit cover letter and fact sheet prior to electronic transmissions to applicants.

c. Application managers will transmit the email to the applicant and additional recipients generally using the language below for the email message.

   "Dear _____,

   In response to the receipt of your NPDES permit application, the Department of Environmental Protection (DEP) has made a tentative decision to issue the permit. Attached to this email is the draft NPDES permit document, a fact sheet explaining the basis for DEP's tentative decision, a public notice for posting, and a cover letter to accompany the draft permit. DEP will take comments on this proposed action for 30 days following publication of the draft permit in the PA Bulletin. Please contact me at this email address or at the number below if you have any questions.

   Sincerely,

   [Signature]"

   NOTE – Alternatively, application managers may choose to use the cover letter language as generated through NMS in the email message and exclude the draft permit cover letter document attachment from the email.

   NOTE – If a draft permit cover letter will be attached to the email, the words "VIA ELECTRONIC MAIL" will be manually added to the top of the letter, below the date.

   The application manager will attach PDF versions of the draft permit cover letter, fact sheet, public notice for posting, and draft permit document to the email.

d. If the draft permit package is sent electronically, the application manager will set the email for "delivery receipt" (in Outlook select Options and check the box for "Request a Delivery Receipt"). If a delivery receipt email is not received within two business days, the application manager will communicate with the applicant (or consultant if applicant cannot be reached) by phone to confirm receipt of the draft permit package.

e. Draft documents (whether transmitted electronically or by hard copy) will be retained in NMS and a copy will be placed in the public file.

8. If it is determined that a hard copy of the draft permit package will be issued, the date of draft permit issuance will be stamped or manually entered onto the draft permit cover letter. The word "DRAFT" will be stamped on the draft permit document or a "DRAFT" watermark will be applied to the Word document.

9. The notice that will be placed in the PA Bulletin will be prepared by the application manager or administrative staff and contain the elements required by 25 Pa. Code § 92a.82(b)(1)-(5).

10. If it is determined that a hard copy of the draft permit package will be issued, one or more copies of the complete draft permit package, consisting of the cover letter, draft permit, fact sheet and draft permit notice for applicant posting will be made for mailing to the applicant, consultant, DRBC, ECHD, and ACHD, as applicable. One hard copy will be retained for the case file.

J. Review applicant, EPA and public comments.

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 Permits 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 (Parts A and B) 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 EPA. According to the Memorandum of Agreement (MOA) with EPA, EPA has 30 days to comment upon, object to or make recommendations on draft permits.

   If EPA has not issued comments to the application manager within 30 days of receipt of the NMS email that notifies EPA of the draft permit, or otherwise has not noted by means of a written general objection within 30 days of notification that EPA will be providing specific written grounds for objections to the draft NPDES permit within 90 days of notification, EPA has waived its opportunity to comment or object to the permit and the application manager may proceed to finalize the permit.

   If EPA comments at any time up to issuance of the final permit, the application manager should address each comment (or recommendation) in writing after consulting with the Permits Chief and/or Central Office, as determined necessary.

   If, after responding to an initial comment or recommendation, EPA continues to request modifications to the permit that the application manager believes is unnecessary or inappropriate, the application manager will consult with the Permits Chief and Central Office for resolution with EPA.

   If EPA provides a written objection to a draft permit, the application manager will consult with the Permits Chief and Central Office for resolution with EPA in accordance with 40 CFR § 123.44. This may include issuance of a revised draft permit to EPA and the applicant.

3. The application manager will review comments received from the public. In general, if there are five or more independent requests (from separate individuals or organizations that may be affected by issuance of a final permit) for a public hearing under Chapter 92a.82(d) for non-EV waters or at least one request for EV waters, or if the Permits Chief or Program Manager otherwise 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 comply with Chapter 92a.83 concerning public notice. 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 using the template in NMS at *NPDES Supporting Documents – Comment-Response*, 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. If the final permit is modified in response to public comments or is denied, the commentators will be copied on the final permit package or denial letter. Otherwise, there will be no formal communication with commentators unless the application manager, Permits Chief or Program Manager believe that separate correspondence should be issued to the commentators.

4. Application managers may not modify language in Parts A and B of the permit without consent from Central Office Division of Planning and Permitting.

K. Decide whether to redraft the permit.

1. 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. A revised fact sheet will be prepared to address the re-drafted permit. All previous documents in NMS will be retained to provide a historical record of the original draft documents.

2. If a draft permit is issued and then is not finalized for 6 months or more, and during this time standard permit language in NMS is modified in a way that would affect the permittee (the application manager will consult the Permits Chief for this determination), the application manager will prepare and issue a revised draft permit with a new public notice in the PA Bulletin. All previous documents in NMS will be retained to provide a historical record of the original draft documents.

L. 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 continues to be unresolved violations associated with the facility that could, in the Permit 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.

3. Following the review of comments, and assuming there are no unresolved violations or the violations will be addressed as described in paragraph J.1, the permit will not be re-drafted and coordination is not necessary or complete, the draft permit in NMS will be opened, anticipated effective and expiration dates on page 1 will be entered and other minor modifications will be made, and saved back to NMS as a new version. The application manager will then change the status of the document to "Final" and keep the disposition at "Pending."

4. The application manager will generate the final permit cover letter using the NMS template at *Letters – Individual NPDES Final Permit Cover Letter*. The application manager will review the letter carefully to ensure that correct and appropriate facility names, abbreviations, salutations, and other information from eFACTS are used and make edits as needed. The application manager will change the status of the document to "Final" and keep the disposition at "Pending."

5. The application manager will generate a fact sheet addendum using the NMS template at *Fact Sheets – Addendum* to document comments received following issuance of the draft

permit and any changes to the final permit. The addendum will be signed by the application manager, Permits Chief and Program Manager, and will be attached to the front of the original fact sheet for the file.

6. The application manager will enter the anticipated effective and expiration dates into NMS. Note that the effective date for individual permits must be the first day of the month following permit issuance. The effective date will not be set to a date in the past and, in general, will not be "post-dated" for the future.

7. All documents will be printed and assembled in the following order: 1) final permit cover letter, 2) final permit, 3) annual report, 4) joint Chapter 91.38 permit(s) as applicable, and 6) other attachments added to the package at the discretion of the application manager.

    The applicant's consultant, if applicable, PFBC's point of contact (Heather Smiles) and the PFBC law enforcement officer (only if a joint Chapter 91.38 permit is attached) will be copied on the final permit and cover letter. DRBC will be copied if the facility is in the Delaware River watershed. ACHD and ECHD will be copied if the facility is located in those counties. If the permit was modified in response to public comments, the appropriate commentator will be copied.

V. Final Review (Permits Chief)

The Permits Chief will complete the following tasks upon receipt of the final permit package:

A. Review the final permit documents and sign the fact sheet, if applicable, if the Permits Chief is in agreement, or otherwise return the final permit package to the application manager for edits.

B. Verify that the minimum required documents from Step IV are in NMS as Final – Pending documents.

C. Verify that any applicable permit coordination has been completed.

    Where other DEP permits are required and coordinated permit issuance is necessary, the Permits Chief will notify the Program Manager and Assistant Regional Director that the NPDES permit is ready for issuance, and the application manager will enter a "CRR" subtask (B/E Coordinated Application Required) into eFACTS, with a start date corresponding to the day after the end of the PA Bulletin comment period and an end date on the date of final permit issuance when authorization is given to issue the permit.

    If a PNDI conflict is not resolved by this time, a "PAC" subtask (Pending other agency comments/approvals) will be entered into eFACTS, and the final permit package will be held until the PNDI conflict is resolved.

D. If there are unresolved violations associated with the facility, the Permits Chief will discuss the matter with regional counsel and the Program Manager to decide whether the permit will be issued, will be denied, or whether issuance should be held for the development of an enforcement document. If issuance of coverage will be delayed for this reason, a "NC" (Non-Compliance Prohibits Final Decision) subtask will be entered under the Technical Review task.

E. Submit the final permit package to the Program Manager.

VI. 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 Permits Chief for edits.

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

VII. Final 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. Open the permit document in NMS, enter the issuance date on Page 1, apply a signature indicator ("/s/") on Page 1, and ensure that the correct effective and expiration dates are on Page 1.

B. Change the Disposition of the final permit cover letter, final permit, Annual Report and all other documents that will be part of the final permit package issued to the applicant from "Pending" to "Issued (Mailed)." Change the Disposition of documents that are not part of the final permit package from "Pending" to "Complete." Ensure there are no documents in the list with a Disposition of "Pending".

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

D. Issue the authorization in eFACTS.

   NOTE – Documents will be changed to a Disposition of "Issued (Mailed)" on the same day as the authorization is issued in eFACTS.

E. Make copies, and mail the copies to the applicant, consultant, ECHD, ACHD and DRBC, as applicable, with a copy to Central Office Division of Operations, Monitoring and Data Systems and other appropriate staff. The final permit cover letter will not be sent via Certified Mail.

F. Generate and save the PA Bulletin listing for the final permit issuance using the appropriate template in NMS.

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

Version History

Date	Version	Revision Reason
8/15/13	1.3	Updated Section IV I relating to issuance of draft permits to specify that fact sheets prepared to support draft permits will be sent to applicants with other draft permit documents. In addition, procedures for electronic transmission of draft permit documents have been introduced.
7/16/13	1.2	Updated Section II to indicate that the Permits Chief will notify the regional Late Application Coordinator if a permit renewal application has been submitted late. Updated Section III to indicate that incompleteness letters will be sent to permittees if a renewal application is significantly deficient.
12/28/2012	1.1	Modified references to PF Kind ("Pesticides") and SF Type ("Pesticides Treatment Area"). Clarified in Section I A.2 that if a fee is missing, it should be treated as an underpayment in accordance with the Management Directive.
11/9/2012	1.0	Original