

**Standard Operating Procedure (SOP)¹ for Clean Water Program
Applications for Amendments and Transfers of NPDES and WQM Permits**

SOP No. BPNPSM-PMT-029

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Version 1.3

This SOP describes the procedures by which the Clean Water Program will process applications for amendments and transfers of NPDES and Water Quality Management (WQM) permits. All authorization types processed by the Clean Water Program are subject to this SOP.

In general, consult permit-specific SOP for steps involving Preliminary Data Management and Fee Processing, Technical Review and Preparation of Permit, Completion of Technical Review, Final Decision and Final Permit Processing.

Applications for amendments and transfers of NPDES and WQM permits **ARE NOT** part of the Permit Decision Guarantee (PDG).

I. NPDES Transfers

- A. Changes in ownership or operational control of a facility are considered Minor Amendments under 25 Pa. Code 92a.2; however, applicants are expected to complete the Application for NPDES or WQM Permit Transfer (3800-PM-WSFR0041b) rather than the Application for Permit Amendment, and will be processed as transfers in eFACTS (select APPL Type of "TRAN").
- B. Changes to a client's name only will be processed as a minor amendment in eFACTS (select APPL Type of "AMIN"). If a transfer application is received for a name change only, it will be processed as a minor amendment. If asked in advance, Clean Water Program staff will advise the applicant to submit the Application for Permit Amendment (3800-PM-WSFR0027b) and check the box for "Minor Amendment."

NOTE – Using the APPL Type of "AMIN" in eFACTS will create a fee transaction record, for individual NPDES permits, of \$200. The transfer application may have a different fee attached. Administrative staff will not request additional fees or return fees for name changes where a transfer application is received, but will modify the fee transaction's "amount due" to match the fee payment received.

- C. The receipt of transfer applications for individual and General NPDES permits will not be published in the PA Bulletin at this time.
- D. A transferred NPDES permit will not be issued if the permit or permit coverage has already expired. If the transfer application is received after the expiration date and an application to

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.

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

renew the permit or permit coverage had been received previously, the Permits Chief will acknowledge receipt of the transfer application (via letter, email or phone) and inform the applicant that the new owner will be updated in our data systems, but a transferred permit cannot be issued at this time.

In such cases administrative staff will:

1. Incorporate the transfer into the pending renewal application in eFACTS by updating the client and recreating the authorization as necessary.
 2. Update the client of the primary facility (PF) that is linked to the renewal authorization.
 3. Increase the fee transaction's amount due for the renewal authorization corresponding to the amount received for the transfer application.
 4. Notify Central Office Division of Operations, Monitoring and Data Systems of the updated client, so that the change can be made in ICIS.
- E. If an NPDES permit is expired and a permit renewal application had not been received previously (before the expiration date), and then a transfer application is received, the transfer application will be denied and the denial letter will indicate that an application for a new permit is required.
- F. If an NPDES renewal or amendment application is pending and a transfer application is received prior to the permit expiration date, the transfer will be incorporated into the permit renewal or amendment and administrative staff will complete steps D.1 through D.3, above.
- G. If a transfer application for an individual NPDES permit is received at least 30 days prior to the "Date of Proposed Sale / Transfer of Ownership" (as identified on the transfer application) and the transfer application is complete, the Permits Chief will consult with Operations staff for individual NPDES permits to determine whether there are outstanding compliance issues at the facility.
1. If there are outstanding compliance issues at the facility and it is believed that amending the NPDES permit or revoking and reissuing the permit is necessary to resolve the non-compliance, the Permits Chief will transmit a letter to the proposed new permittee with a copy to the existing permittee indicating that the transfer is not "automatic," explaining the steps DEP plans to take (see 25 Pa. Code § 92a.71(b); 40 CFR § 122.61(b)).
 2. If there are no outstanding compliance issues or otherwise the Permits Chief believes that amending or revoking and reissuing the permit is unnecessary, the transfer will be "automatic," and the transfer application will be processed according to the Permit Review Hierarchy (Doc ID 400-2100-001). The permit will be transferred with the same limits, monitoring requirements, effective date, expiration date, and permit language as the original permit. Only the name and address will be modified on the first page of the permit. The date the permit is transferred will be identified on the first page of the permit. No draft permit will be issued. The full permit will be generated, printed, and mailed to the permittee.
- NOTE** – The "Copy Documents" function in NMS should generally be used to import the original permit documents for modification.
- H. If a transfer application for an individual NPDES permit is not received at least 30 days prior to the "Date of Proposed Sale / Transfer of Ownership" (as identified on the transfer application), the transfer is not "automatic."
1. The Permits Chief will consult with Operations staff to determine whether there are outstanding compliance issues at the facility. If there are outstanding compliance issues at

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

the facility and it is believed that amending the NPDES permit or revoking and reissuing the permit is necessary to resolve the non-compliance, the Permits Chief will transmit a letter to the proposed new permittee with a copy to the existing permittee indicating that the transfer is not “automatic,” explaining the steps DEP plans to take (see 25 Pa. Code § 92a.71(b); 40 CFR § 122.61(b)).

2. The application manager will make a determination on whether effluent limitations, monitoring requirements or permit language should be modified. If it is determined that a modification is needed, the application manager will then determine whether the modifications should be considered Minor or Major, using the definition of Minor Amendment in 25 Pa. Code § 92a.1.
 - a. If the modifications are considered Minor, those Minor modifications will be made to the permit document and justified in a fact sheet. The transferred permit will be issued with an updated client on page 1, transfer date on page 1, and any other Minor modifications that were made. The application manager will follow the process in Sections III and IV.
 - b. If the modifications are considered Major, the authorization’s APPL Type will be changed from “TRAN” to “AMAJ” (Major Amendment) and the application manager will follow the process in Sections III and V.
- I. Transfer applications for General NPDES permits will be processed by attaching the latest statewide General Permit that has been issued by Central Office and the applicable appendix, DMRs, annual report forms, etc., as applicable.
- J. The NPDES permit number for transferred permits (both individual and General permits) will contain a notation of “A-X” after the NPDES permit number, where X = the total number of amendments and transfers issued since the original permit was issued. The “A-X” notation will not be used within the authorizations’ program-specific ID or PF’s Other ID in eFACTS, but will be identified on the first page of the permit and subsequent pages, as applicable.
- K. Cover letters for transferred permits will copy the previous permittee.
- L. The expiration date of a transferred permit will not be changed in comparison to the original permit.
- M. Fact sheets (or “Internal Review and Recommendations”) are not generally necessary for transfers that involve no permit changes but may be done at the discretion of regional offices. If fact sheets are completed for transfers, they will be very brief (i.e., one page).

II. WQM Transfers

- A. The receipt of transfer applications for WQM permits will not be published in the PA Bulletin at this time.
- B. When WQM permits are transferred, the latest WQM permit template and standard conditions will generally be used for the transferred permit unless the regional office has concerns that doing so will result in an appeal. Regional offices may, at their discretion, transmit a “draft” WQM permit to the new permittee to make them aware of the new permit conditions and wait for concurrence before issuing the permit transfer. New special conditions may be attached to the transferred permit, at the discretion of the application manager and Permits Chief.
- C. The WQM permit number for transferred permits will contain a notation of “T-X” after the WQM permit number, where X = the number of transfers issued since the original permit was issued. The “T-X” notation will not be used within the authorizations’ program-specific ID or PF’s Other ID

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

in eFACTS, but will be identified on the first page of the permit and subsequent pages, as applicable.

III. NPDES Amendments – General

- A. Except as indicated in paragraph C.2, all requests made by a permittee to modify an individual NPDES permit should be considered either a Minor or Major Amendment, and the request should be submitted on the appropriate Application for Permit Amendment, with the appropriate fee.
- B. If the permit contains language indicating that DEP may modify the permit following an event performed by the permittee and (1) the language does not intend for the request to be submitted on an application form, and (2) the permittee requests a modification that is within the scope of the permit language, DEP may initiate the amendment in lieu of requiring the submission of the Application for Permit Amendment.
- C. DEP is not obligated to approve a request for an amendment if an Application for Permit Amendment is submitted.
- D. Completeness Reviews for Individual NPDES Amendment Applications.
 - 1. When Applications for Permit Amendment forms are received, the application manager will review the request carefully to determine whether or not the requested modification to the permit constitutes a Minor Amendment, as defined in Chapter 92a, or should be considered a Major Amendment. If the application manager believes that the permittee has incorrectly asserted that the requested change constitutes a Minor Amendment where it should be deemed a Major Amendment, the application manager will discuss the matter with the Permits Chief. If the Permits Chief agrees, the application manager will contact the permittee (or permittee's authorized representative) by phone to provide the regulatory basis for the decision, and request the additional fee and revised application within 5 business days. If the permittee does not submit the revisions by the deadline, the application will be denied, and the NMS template found at *Letters – Application Denial Letter* will be used. The fee will not be returned.
 - 2. The permittee may need to attach relevant modules from individual NPDES permit applications to the Application for Permit Amendment for the application manager to evaluate the proposal. Since there is no protocol for what attachments should be provided, the application manager will not deny amendment applications on the basis that needed attachments are missing, but instead (1) contact the permittee (or permittee's authorized representative) by phone or (2) use the NMS template at *Letters – Technical Deficiency Letter* to communicate the deficiencies, at the application manager's discretion.
- E. All amendments of NPDES permits will contain the same effective and expiration dates as the original permit or permit coverage, as applicable.
- F. When an NOI is submitted by a permittee that is covered under a General NPDES permit with the intent to update information contained in the original NOI, if the submission is considered satisfactory in accordance with the appropriate General Permit SOP, a letter or email acknowledging receipt of the NOI will be sent to the permittee, but the statewide General Permit will not be reissued to the permittee UNLESS the statewide General Permit has been amended or renewed since the time that coverage was originally approved, in which case permit coverage dates will remain the same.
- G. The NPDES permit number for amended permits (both individual and General permits) will contain a notation of "A-X" after the NPDES permit number, where X = the total number of

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

amendments and transfers issued since the original permit was issued. The “A-X” notation will not be used within the authorizations’ program-specific ID or PF’s Other ID in eFACTS, but will be identified on the first page of the permit and subsequent pages, as applicable.

- H. The expiration date of a transferred permit will not be changed in comparison to the original permit.

IV. Minor Amendments to Individual NPDES Permits

- A. Minor Amendments to individual NPDES permits may be issued only for the following:

1. Typographical errors*.
2. Increases in monitoring requirements*.
3. Changes to interim compliance dates by no more than 120 days.
4. Changes in ownership or operational control of a facility**.
5. Deletion of a discharge point (outfall).
6. Changes to a construction schedule for a discharger that is a new source.
7. Incorporation of an approved pretreatment program into an existing permit.

* These would be considered DEP-initiated Minor Amendments, not subject to fee requirements.

** These are processed as Transfers.

- B. Minor Amendments that are requested by the permittee and involve a fee will be created as an authorization (select APPL Type “AMIN”). DEP-initiated Minor Amendments will be created as an authorization except as noted in paragraph VI B.
- C. Receipt of applications for Minor Amendments will not be published in the PA Bulletin.
- D. Draft permits will not be issued for Minor Amendments.
- E. EPA does not need to receive a copy of the permit application for Minor Amendments, but will be copied through NMS on the final permit package for all Minor Amendments for permits that are not waived.
- F. A fact sheet is optional for Minor Amendments.
- G. The final permit package for Minor Amendments will include a cover letter (signed by the Program Manager), the first page of the permit and the page(s) of the permit that have been modified in comparison to the original permit. Alternatively, the complete permit may be issued as long as the cover letter identifies the page(s) containing changes.

NOTE – The “Copy Documents” function in NMS should generally be used to import the original permit documents for modification.

- H. Issuance of Minor Amendments will not be published in the PA Bulletin at this time.

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

V. Major Amendments to Individual NPDES Permits

- A. Major Amendments always require an authorization in eFACTS (select APPL Type “AMAJ”), regardless of whether the Major Amendment was requested by the permittee or initiated by DEP.
- B. Major Amendments to individual NPDES permits are those that are not identified in step IV A.1 through A.7, above.
- C. Draft permits for Major Amendments will be issued. Receipt of applications for Major Amendments will be published in the PA Bulletin at the time the draft permit is issued.
- D. The application manager or administrative staff will transmit a copy of the permit amendment application to EPA before the draft permit is ready for issuance in NMS. EPA will be copied on all draft and final Major Amendments for permits that are not waived.
- E. A fact sheet is required for Major Amendments as part of the draft permit development process. Application managers will generate and save the NMS template at *Fact Sheets – Amendments* and provide a summary of the proposal and review.

NOTE – For significant amendments that involve water quality modeling for example, other fact sheet templates with optional base templates may be used.

- F. A fact sheet addendum is required for Major Amendments when the final amended permit package is prepared.
- G. Issuance of Major Amendments will be published in the PA Bulletin.

VI. DEP-Initiated Amendments

- A. DEP may amend individual permits at any time, but must determine whether the amendment constitutes a Minor Amendment (as defined in Chapter 92a) or a Major Amendment. If the amendment will be Minor, the general approach in Section IV will be followed. If the amendment will be Major, the general approach in Section V will be followed.
- B. An authorization will be created for any DEP-initiated amendment (select APPL Type “AMEN”) except for the following:
 - 1. Correction to typographical errors in issued permit documents.
 - 2. DEP initiates a change to an interim compliance schedule date modified by no more than 120 days.

For both of these cases, the application manager may open the documents in NMS, make the necessary changes, save the document back to NMS as a new version, and print the documents.

- C. Where DEP initiates a Minor Amendment, the application manager will contact the permittee by phone (unless the permittee has already contacted the application manager) to make them aware of the correction to the permit that will be made.

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

VII. WQM Amendments

- A. WQM Amendments will use the latest permit template and standard language.
- B. The WQM permit number for amended permits will contain a notation of “A-X” after the WQM permit number, where X = the number of amendments issued since the original permit was issued. The “A-X” notation will not be used within the authorizations’ program-specific ID or PF’s Other ID in eFACTS, but will be identified on the first page of the permit and subsequent pages, as applicable.

**SOP – Amendments and Transfers of NPDES and WQM Permits
Revised, November 7, 2013**

Version History

Date	Version	Revision Reason
11/7/2013	1.3	Revised existing language for the receipt of individual NPDES and WQM transfers issuance of minor amendments to individual NPDES permits that we will not publish notices for these applications and actions in the PA Bulletin at this time.
8/16/2013	1.2	Added flexibility to Section II B for WQM permit transfers, i.e., the latest permit template and conditions should generally be issued for WQM permit transfers unless there are concerns with appeals; draft WQM permits may be issued to alert the new permittee to changes in conditions.
12/17/2012	1.1	Revised convention for WQM transfers from “A-X” to “T-X” in section II.C.
11/9/2012	1.0	Original