

Standard Operating Procedure (SOP)¹
Review of Individual NPDES Permit Applications
Stormwater Discharges Associated with Construction Activities
SOP No. BCW-102-003
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INTRODUCTION

This SOP describes the procedures by which the Department of Environmental Protection (DEP) Waterways and Wetlands Program, DEP Major Projects Permitting Division (MPPD), and delegated county conservation districts (CCDs) will process applications for Individual NPDES Permits for Discharges of Stormwater Associated with Construction Activities. The eFACTS authorization type covered by this SOP is “NSC” and the application types covered by this SOP include “NEW”, “AMEN” (amendment) and “REN” (renewal).

Under the Governor’s [Executive Order 2023-07](#) (Building Efficiency in the Commonwealth’s Permitting, Licensing, and Certification Processes), DEP has 117 business days to take a final action on new, renewal, and amendment individual permit applications for stormwater discharges associated with earth disturbance activities and 22 business days for transfer applications. Failure to take action within this period of time may result in a refund in disturbed acreage fee(s) (“PAYback”). PAYback refund policies impact DEP only; CCDs are not subject to the PAYback refund policy.

DEP will be the permitting authority for all Individual NPDES Permit applications. However, the application typically is submitted initially to delegated CCDs (the applicant should read the application instructions on where to properly submit their application). The CCD’s role in the review of Individual NPDES Permit applications is the completeness review, the technical review of the Erosion and Sediment Control (E&S) Plan, and the technical review of the Post-Construction Stormwater Management (PCSM) Plan when delegated. For counties without a delegated CCD, DEP will handle all aspects of the review of the Individual NPDES Permit application, and all fees would then be applicable for refund under PAYBack.

DEP and CCDs will refer to DEP’s [Policy for Permit Coordination](#) (DEP Document No. 021-2000-301) and other existing guidance when evaluating the need to coordinate issuance of Individual NPDES Permits with other permits.

Flow charts identifying the significant administrative procedures involved in processing Individual NPDES Permit applications are presented in [Figure 1](#) and [Figure 2](#).

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.

DETAILS / PROCEDURES / STEPS

I. Pre-Application Meeting (DEP/CCD Staff)

Applicants are encouraged to request a Pre-Application Meeting with DEP and the CCD. A Pre-Application Meeting is important for the applicant to explain the project to DEP/CCD. A Pre-Application Meeting will be required for new applications at sites with known contamination (see [Attachment A](#)).

- A. If an applicant wants to request a Pre-Application Meeting, they should contact DEP/CCD to schedule a Pre-Application Meeting (either an in-person meeting or a conference call, as determined by DEP/CCD). The request should be accompanied by a completed [Chapter 102 Pre-Application Meeting Request Form](#) (DEP Document No. 3800-FM-BCW271e). If a CCD is contacted to schedule the pre-application meeting, they will coordinate the meeting with DEP, and vice-versa.
- B. During the Pre-Application Meeting, DEP/CCD staff will identify any additional DEP permits potentially required for the project² and provide an explanation of the PAYback review timeline. DEP's *Policy for Permit Coordination* should be followed during the Pre-Application Meeting.
- C. During the Pre-Application Meeting, DEP/CCD staff will take general notes of the discussion and record the notes on the [Chapter 102 Pre-Application Meeting Record Form](#) or equivalent. At the conclusion of the Pre-Application Meeting, DEP/CCD staff will provide (in person or by email) a copy of this form to the applicant and consultant to ensure understanding by all parties.
- D. If known at the time, the Application Manager for DEP (i.e., the lead reviewer of the application when it is submitted) for the application should be identified to the applicant.

II. Preliminary Processing, Prioritization and Assignment (DEP/CCD Staff/Management)

Upon receipt of an Individual NPDES Permit application, DEP/CCD administrative staff and management will implement the following steps as soon as possible but no longer than five (5) business days of the receipt of the application:

- A. DEP/CCD administrative staff will date stamp the application (and all other accompanying information) with the date received and record the date received in the "DEP/CCD Use Only" box on the first page of the application.
- B. DEP/CCD administrative staff will assign an NPDES Permit Identification (ID) Number in accordance with DEP guidance for Chapter 102 Permit Numbering and record the Permit ID number in the "DEP/CCD Use Only" box on the first page of the application.
- C. Process Fees.
 1. DEP/CCD administrative staff will follow the procedures in DEP's [Management Directive OAM-1000-002](#) for the over-payment or under-payment of fees.
 2. DEP/CCD administrative staff will ensure the following fees have been submitted with the Individual NPDES Permit application:
 - a. The Base Administrative Filing Fee of \$1,500, made payable to the Conservation District Clean Water Fund or, where DEP is the initial recipient of the application, made payable to the Commonwealth of Pennsylvania Clean Water Fund.

² It is the responsibility of an applicant to ensure that all necessary permits are obtained from DEP. The applicant is encouraged to submit their project information through DEP's [Permit Application Consultation Tool](#).

- b. The Disturbed Acreage Fee of \$100 multiplied by the Total Earth Disturbance Area (rounded to the nearest acre). Where a CCD is the initial recipient of an application, the Disturbed Acreage Fee will be transmitted to the DEP regional office for deposit into the Commonwealth of Pennsylvania Clean Water Fund.
- c. Where applicable, CCD-specific review fees.

NOTE 1 – Fees should not be held until after the Completeness Review has been performed.

NOTE 2 – The United States Environmental Protection Agency (EPA), PennDOT, the Pennsylvania Turnpike Commission, DEP, the Department of Conservation and Natural Resources (DCNR), and the Pennsylvania Fish and Boat Commission are exempt from Chapter 102 NPDES fees. If any other entity claims an exemption, request assistance from the DEP regional office or DEP’s Bureau of Clean Water.

NOTE 3 – CCDs may forward Disturbed Acreage Fees to the DEP regional office as they are received or may bundle them and forward all checks at least once per week.

NOTE 4 – A CCD may create an expedited review process under their fee schedule. However, the expedited reviews under such a process would be to pay for overtime for the CCD staff to perform the review. A CCD expedited review would not supersede the PRP/PDG Policy’s Permit Review Hierarchy and a CCD expedited review fee does not affect the processing of the application by the DEP office.

NOTE 5 – If the CCD has an expedited (or otherwise named) review fee, the CCD can require a Pre-Application Meeting as part of their expedited review process.

NOTE 6 – Fees (including CCD-specific fees) must be resolved prior to considering an application for completeness (Section III).

NOTE 7 – The Administrative Filing Fee paid to CCDs and all CCD-specific fees are not subject to PAYback refund guidelines. Disturbed Acreage Fees and where applicable Administrative Filing Fees paid to DEP are subject to PAYback refund guidelines.

D. Preliminary Data Management.

1. If a CCD is the initial recipient of an application, CCD administrative staff will record basic information on the application into an electronic data system (i.e., database, spreadsheet, or other system in which this information can be retrieved for review by staff or other parties). The minimum information that will be recorded includes applicant name, applicant address, project (site) name, NPDES Permit ID No., municipality, fees collected and date the application was received.
2. If DEP is the initial recipient of an application or upon receipt of the application if a CCD is the initial recipient, the DEP Application Manager or administrative staff will record the receipt of the application in eFACTS; the following steps will be taken:
 - a. Create or update a site, client and client-site relationship for the project in eFACTS, as necessary.
 - b. Create or update a primary facility (PF) and at least one subfacility (SF) under the site. The PF should have a Kind of “SWC” (Stormwater Construction (Non-Phased)) or “SWCP” (Stormwater-Phased Construction) as appropriate. To determine which PF Kind to use review page 1 of the Application (i.e., if a Common Plan of Development or Sale select “SWCP”). Select an SF type that matches the proposed land use upon completion of the project. Enter as much information in the PF and SF screens as is available, including latitude/longitude coordinates.
 - c. On the eFACTS Application screen, create a new authorization record by entering a new APS (Project) name, Program ID (i.e., NPDES Permit ID No.), and date the application was received by

DEP (“Recvd”), and by selecting the client, site, authorization type (“NSC”), application type, and lead reviewer (if known at this stage, otherwise select the Permits Chief).

NOTE 8 – When DEP is the initial recipient of an application (Forest and Philadelphia Counties), the Received Date entered into eFACTS should be the date the application is received by DEP. When the CCD is the initial recipient of an application and is not PCSM-delegated, the Received Date should be the date the CCD determines that the application is complete. When the CCD is the initial recipient of an application and is PCSM-delegated, the Received Date should be the date DEP receives the draft permit for publishing in the Pennsylvania Bulletin.

- d. Select the Master Auth ID (for renewals and amendments) or create the Master Auth (for new applications), as appropriate.
- e. Enter the total amount received in Administrative and Disturbed Acreage Fees in the Fee Payment screen against the account created for the client. If the CCD has deposited the Administrative Fee, then only report the Disturbed Acreage Fee received.
- f. 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.
- g. Populate the fee category for the PF in eFACTS (Chapter 102 Individual Permit).
- h. Validate the authorization for [Water Management System](#) (WMS) after ensuring the minimum required data are populated for the authorization and PF.
- i. DEP/CCD administrative staff will provide the application to the CCD manager (or assistant manager or supervisor as designated by the manager) (where a CCD is performing the completeness review) or the DEP Permits Chief (where DEP is performing the completeness review). The CCD manager or DEP Permits Chief will assign an Application Manager to the application, unless this has been done previously, and provide the application to the Application Manager.

III. Completeness Review (Application Manager)

When the Application Manager receives the application from the CCD Manager or Permits Chief, the Application Manager will, within 15 business days from DEP/CCD’s completion of [Step II](#), review the application for administrative completeness and overall technical adequacy, as follows.

- A. The Application Manager will verify the application was signed by an individual with applicable authority under 40 CFR § 122.22. These individuals include:
 1. For a partnership or sole proprietorship: a general partner or the proprietor;
 2. For a municipality, State, Federal or other public agency: a ranked elected official or principal executive officer;
 3. For a corporation:
 - a. A responsible corporate officer such as a president, secretary, treasurer, or vice-president in charge of a principal business function or any other person who performs similar policy or decision-making functions, or
 - b. The manager of one or more facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other



comprehensive measures to assure long term environmental compliance with environmental laws and regulations. The manager can ensure that the necessary systems are established, or actions taken to gather complete and accurate information for permit application requirements, and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE 9 – Managers claiming authority must provide proof of authority through appropriately executed documents. This proof may indicate the specific individual or their position title.

B. Completeness Review by Application Type.

1. **New Applications** – The Application Manager will document the completeness review of new applications using the [Chapter 102 Fact Sheet template](#), which serves as the record of decision on the application. All required signatures must be obtained prior to permit issuance. A complete and technically adequate application for a new project is characterized by a response of “TRUE” or “N/A” for all items in the Application Completeness Review Checklist of the Fact Sheets, not including fees addressed in Section II.C.
2. **Renewal Applications** – A complete and technically adequate Individual NPDES Permit application for an existing permittee seeking renewal of their Individual NPDES permit must include only an application (3800-PM-BCW0408b) with the General Information, Compliance History and the Certification sections completed along with the General Information Form (GIF) (only Client Information and Certification sections need to be completed) and correspondence indicating that 1) no changes to the E&S and PCSM Plans are planned and 2) a description of the work that has been completed and the work that is still remaining. In addition, a new Administrative Filing Fee is required. If any changes to the E&S and/or PCSM Plans are proposed, the applicant must check the box on the application for a Major or Minor Amendment. If the timing of the amendment coincides with the timing of a renewal application, both the Renewal and Major or Minor Amendment boxes should be checked. A Fact Sheet is optional for renewal applications.
3. **Amendment Applications** – The contents of a complete and technically adequate Individual NPDES Permit application for an existing permittee seeking a Major or Minor Amendment must include 1) a complete application (3800-PM-BCW0408b) with any change to the original information presented in bold text, and 2) other information to be determined by DEP/CCD in consultation with the permittee and following the guidelines in DEP’s [Frequently Asked Questions \(FAQ\) for Chapter 102 Permit Amendments](#). Fact Sheets are optional for amendment applications but should be considered for Major Amendments when public interest in the project is expected.

NOTE 10 – All Major Amendments to individual permits must be issued by DEP. A Minor Amendment which is solely related to the E&S Plan can be issued by DEP or a delegated CCD after coordination with DEP. A Minor Amendment which includes revisions to the PCSM Plan can be issued by DEP or a PCSM-delegated CCD after coordination with DEP.

NOTE 11 – The Compliance History section of the application should contain at a minimum all violations that have been the subject of a DEP/CCD enforcement action. The applicant is expected to report all such violations of a regulation, permit, order, or schedule of compliance in a truthful and accurate manner. If an Application Manager has concerns with the information in this section, the DEP Application Manager can query the internal version of eFACTS and the CCD Application Manager can query the public version of eFACTS. DEP must deny an application submitted by any person, partnership, association or corporation which has engaged in unlawful conduct as defined in Section 611 of the Clean Streams Law or which has a partner, associate, officer, parent corporation, subsidiary corporation, contractor or subcontractor which has engaged in such unlawful conduct unless the permit application demonstrates that the unlawful conduct is being corrected to the satisfaction of DEP.

If the Application Manager has questions concerning applications, the Application Manager should communicate with the DEP regional office (where a CCD is the initial recipient of applications) or applicant

to obtain clarification as necessary and/or issue an [Incompleteness Letter \(13\)](#) as described in Section III.D, below.

NOTE 12 – If at any time the applicant chooses to voluntarily withdraw their application, PAYback is void, regardless of the status of the application.

B. Determination – Application is Complete.

If none of the criteria in the Chapter 102 Fact Sheet (Completeness Review Checklist) are found to be deficient or technically inadequate, the Application Manager or DEP/CCD administrative staff will complete the steps below and proceed to [Section IV](#).

1. Check the box next to “Application Complete” in the “DEP/CCD Use Only” box on page 1 of the application, if the application was submitted on paper.
2. Enter the date the application was determined to be complete in the “DEP/CCD Use Only” box on page 1 of the application, if the application was submitted on paper.
3. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the application was determined to be complete, and transmit one complete copy of the application and attachments to the appropriate DEP office.
4. The DEP Application Manager or administrative staff will update eFACTS as follows:
 - a. Close out the “COMPL” task and subtask using a Begin Date of when the application was received and the End Date as the date the application was deemed to be complete.
 - b. Enter the Begin Date of the Technical Review Standard Task as the date the application was deemed to be complete.
 - c. Enter the Begin Date of the “DR” and “ER” subtasks as the date the application was deemed to be complete and the Due Date as the end of the 47-day technical review period.

At the discretion of the DEP/CCD Application Manager, the DEP/CCD Application Manager or administrative staff may prepare and send a [Completeness Notification Letter \(04\)](#) to the applicant or otherwise transmit an email to the applicant.

C. Determination – Application Contains Minor Deficiencies.

1. If the application contains deficiencies that are determined to be minor (i.e., an item that in the DEP/CCD Application Manager’s judgment can be corrected within two (2) business days) with no extension, the Application Manager will contact the applicant (or the applicant’s authorized representative) by phone to explain the deficiency and offer the opportunity to submit the necessary materials informally by the end of the second 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, copying the DEP Regional Office.

NOTE 13 – 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. This contact can include an email to the applicant, with the consultant copied, which identifies the deficiencies and the deadline to respond.

- a. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date of the contact with either the applicant or their consultant.



- b. The DEP Application Manager or administrative staff will enter the subtask “PPC” into eFACTS to identify the phone call. The Begin Date will be the date of the phone call and the Due Date will be the date that the information is to be submitted. The End Date will either be the date the response is received or the date of the [Incompleteness Letter \(13\)](#) (as described in [Section III.D](#)).
 2. A phone log will be kept that details the name of the person contacted, the day and time of the conversation, and notes for all communications regarding the application review. All phone logs will be retained with the application file during and following final action on the application, 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.
 3. In the event the Application Manager is unable to contact the applicant or consultant by phone after two attempts, or if a phone message is not returned after two business days, the Application Manager will proceed to [Section III.D](#).
 4. 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 follow the steps in [Section III.B](#), above.
 5. If a submission is not received or if a submission is received but does not correct the original minor deficiencies, the Application Manager will proceed to [Section III.D](#).
- D. Determination – Application is Incomplete.

1. If the application is incomplete and the deficiencies are determined not to be minor or if the applicant does not respond to or correct the minor deficiencies, the Application Manager will officially deem the application to be incomplete. The Application Manager will prepare and send an [Incompleteness Letter \(13\)](#).

NOTE 14 – Only one (1) incompleteness letter will be sent by the Application Manager.

- a. If an application is determined to be incomplete, PAYback is not void.
- b. The incompleteness letter will cite the statutory or regulatory requirement(s) that were not met.
- c. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the incompleteness letter is transmitted.
- d. The DEP Application Manager or administrative staff will update eFACTS as follows:
 - i. Enter the “COMPL” task and subtask using a Begin Date of when the application was received and the Due Date of 15 business days from the date of receipt.
 - ii. Enter the “SDN” subtask, with the Begin Date of the date of the incompleteness letter and the Due Date will be the date that the response to the letter is to be submitted. The End Date will either be the date the response is received or the date of the withdrawal.
- e. The applicant will be given 60 calendar days to respond. This 60 calendar-day period is referred to as the deficiency correction period. If the applicant does not respond within the 60 calendar days, DEP/CCD will consider the application to be withdrawn by the applicant (per 25 Pa. Code § 102.6(c)(2)) and PAYback is void.
- f. The applicant may request, in writing, to extend the time to respond beyond the 60 calendar days. The request must identify the additional amount of time to respond and the justification/reason for the extension. If a request is submitted, the Application Manager will coordinate with the DEP Program Manager/Permits Chief to grant the extension or not. The Application Manager will



prepare and send the [Extension Request Letter \(11\)](#). Unless otherwise warranted based on consultation with the DEP Program Manager/Permits Chief, the time to respond will not exceed an additional 30 calendar days.

NOTE 15 – In order for the extension request to be considered, the justification must relate to the completeness deficiencies identified and not related to revisions to the plan/project from another approving agency (e.g., municipality, PennDOT, etc.). If the extension request is related to another approving agency's comments, the request will not be granted and the applicant should consider withdrawing their application.

- i. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date of the extension request letter, whether the extension was granted or not, and the new date of when the response is due.
 - ii. The DEP Application Manager or administrative staff will create the "SREL" subtask in eFACTS. The Begin Date will be the of the requested extension, the Due Date will be the response date the response is due and the End Date will be the date of extension request letter. A comment will be added to the "SREL" subtask identifying if the requested was granted or not. If the request is granted, the "SDN" Due Date will be updated to the new due date of the response.
2. If a submission is received (receipt by email or fax is acceptable except when original signatures, plans or seals are needed) within the deficiency correction period that corrects the deficiencies, the Application Manager will consider the application complete and follow the steps in [Section III.C](#), above. In addition, the Application Manager will record the date the response submission was received in the Date Resubmission Received field within the "DEP/CCD Use Only" box on page 1 of the application, if submitted on paper.
 3. If no submission is received by the end of the deficiency correction period, or if the applicant voluntarily elects to withdraw the application in writing, the Application Manager will prepare and send the [Deemed Withdrawn Letter \(05\)](#) or the [Voluntary Withdrawal Letter \(33\)](#) (withdrawal letter), which will be reviewed and signed by the CCD Manager or DEP Program Manager/Permits Chief. The Application Manager will check the appropriate box for "Withdrawal" and identify the date of the withdrawal letter in the "DEP/CCD Use Only" box on page 1 of the application. PAYback is void.
 - a. The CCD Manager or DEP Program Manager/Permits Chief will sign the Chapter 102 Fact Sheet.
 - b. Where a CCD is the initial recipient of the application, the CCD will update a record of the application in an electronic system to include the date the withdrawal letter is transmitted.
 - c. The DEP Application Manager or administrative staff will close the COMPL task and subtask by entering the End Date as the date the deficiency correction period ended, dispose the authorization in eFACTS by selecting "Withdrawn" for the disposition code, and enter the date of the withdrawal letter in the field for date disposed.
 - d. DEP/CCD will retain one copy of the application package and the withdrawal letter in its official files for a period no less than 60 days. After the 60 days, the file may be purged with only the withdrawal letter retained.

NOTE 16 – If an application is withdrawn, no *Pennsylvania Bulletin* notice is required.

NOTE 17 – If an application is withdrawn, the Base Administrative Filing Fee (\$1,500) and Disturbed Acreage Fee will not be refunded. However, the Disturbed Acreage Fee does not have to be re-paid upon submission of a new application for the exact same project (whether or not it is the same applicant). A new Base Administrative Filing Fee (\$1,500) must however be paid for a new application.



4. If a submission is received by the end of the deficiency correction period that does not correct the deficiencies, the Application Manager will prepare and send the [Denial of Incomplete Application Letter \(06\)](#) (denial letter) after the end of the deficiency correction period, which will be signed by the CCD Manager or DEP Program Manager. The Application Manager will check the appropriate box for “Denied” and record the date of the denial letter in the “DEP/CCD Use Only” box on page 1 of the application.

NOTE 18 – DEP/CCD staff do not need to notify the applicant of the information that remains incomplete prior to issuance of the denial letter. However, if there are only minor deficiencies, as described above, the Application Manager can proceed as described in [Section III.D](#) above to try and resolve the minor deficiencies.

- a. The CCD Manager or DEP Program Manager/Permits Chief will sign the Chapter 102 Fact Sheet.
- b. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the denial letter is transmitted and transmit a *Pennsylvania Bulletin* notice of the denial to the DEP regional office.
- c. Where DEP is the sole recipient of an application, the DEP Application Manager or administrative staff will prepare a *Pennsylvania Bulletin* notice of the denial and update eFACTS as follows:
 - i. Complete the “COMPL” subtask, by entering the End Date as the date of the denial of incomplete application letter.
 - ii. Enter a “DENC” subtask, with Begin, Due and End Dates as the date of the denial of incomplete application letter.
 - iii. Dispose the authorization in eFACTS by selecting “Denied” for the disposition code and enter the date of the denial letter in the field for date disposed.
- d. DEP/CCD will retain one copy of the application package and denial letter in its official files for a period no less than 90 days.

NOTE 19 – If an application is denied, a *Pennsylvania Bulletin* notice is required, which should be published in the special notices section of the *Pennsylvania Bulletin* or as otherwise determined by the DEP regional office.

NOTE 20 – If an application is denied, the Base Administrative Filing Fee (\$1,500) and Disturbed Acreage Fee will not be refunded. Both fees must be included in any resubmission, even for the exact same project.

IV. Technical Review (Application Manager)

After the application has been deemed complete ([Section III.C](#)), the DEP/CCD Application Manager will conduct the First Technical Review in accordance with [Section IV.A](#) below. Technical Review of Individual NPDES Permit applications will be documented on the Chapter 102 Fact Sheet.

DEP will have 117 business days from when the application is received to make a final permit decision, unless a permit transfer is being processed, in which case DEP will have 22 business days.

NOTE 21 –DEP staff must use eFACTS subtasks to document the review process in detail once a Date Received is entered into eFACTS. Deficiency letters (SDN), draft permits (DP), and others such as Pending other agency comments/approvals (PAC) will stop the PAYback review clock until the subtasks are closed.

- A. First Technical Review.

The review period objective for the First Technical Review is 47 business days.

1. New Applications

- a. Erosion and Sediment Control (E&S) Plan Technical Review – Application Managers will conduct a technical review of all E&S Plans for new applications utilizing either the Standard E&S Technical Review Checklist or the Expanded E&S Technical Review Checklist (depending on the reviewer's knowledge and experience) of the [Erosion and Sediment Pollution Control Program Manual](#) (E&S Manual). Documentation of the use of the checklist will be identified in the Chapter 102 Fact Sheet.
- b. Post-Construction Stormwater Management (PCSM) Plan Technical Review (Delegated CCD or DEP) – The Application Manager (DEP unless the CCD is PCSM-delegated) will conduct a technical review of the PCSM Plan using the PCSM Plan Technical Review Checklist in the Chapter 102 Fact Sheet.

E&S and PCSM Plan technical reviews will be conducted concurrently, as applicable.

2. **Renewal Applications** – Because the E&S and PCSM Plans cannot be revised by a renewal, there is no need for a Technical Review to be performed on the E&S and PCSM Plans.
3. **Amendment Applications** – If necessary, the Application Manager will perform the Technical Review on the amended E&S and/or PCSM Plans in accordance with Section IV.A.1 above.

B. Determination – The application does not contain technical deficiencies.

If the application, including E&S and PCSM Plans, does not contain technical deficiencies, the Application Manager or DEP/CCD administrative staff will complete the steps below and proceed to [Section VI](#).

1. If a CCD is the initial recipient of the application, the CCD Application Manager will notify the DEP Application Manager or Permits Chief through email that there were no technical deficiencies with the E&S Plan and, if PCSM-delegated, the PCSM Plan. The CCD will update a record of the application in an electronic system to include the date when the technical review was completed.
2. The DEP Application Manager will enter the End Date for the open “ER” subtask as the date that the first technical review was completed.

C. Determination – The application contains minor technical deficiencies.

1. If the application, including E&S and/or PCSM Plans, contains technical deficiencies that are determined to be minor (i.e., an item that in the CCD and/or DEP Application Manager's judgment can be corrected within two (2) business days), the DEP Application Manager will contact the applicant (or the applicant's authorized representative) by phone to explain the technical deficiency and offer the opportunity to submit the necessary materials informally by the end of the second business day. The DEP Application Manager may or may not (at the DEP Application Manager's discretion) follow up the phone call with an email to the applicant and/or consultant.

NOTE 22 – The DEP Application Manager should attempt to communicate with the applicant directly. Where this fails, the DEP Application Manager may attempt to communicate with the consultant, if any. This contact can include an email to the applicant, with the consultant copied, which identifies the deficiencies and the deadline to respond.

- a. If a CCD is the initial recipient of the application and is not PCSM delegated, the CCD Application Manager will provide the DEP Application Manager or Permits Chief with a list of the minor technical deficiencies identified in the E&S Plan. If a CCD is the initial recipient of the application and is



PCSM delegated, the CCD Application Manager or Engineer may, upon agreement between DEP and the CCD, contact the applicant to resolve minor technical deficiencies.

- b. If DEP contacts the applicant, the DEP Application Manager will enter the subtask “PPC” into eFACTS to identify the phone call. The Begin Date will be the date of the phone call and the Due Date will be the date that the information is to be submitted. The End Date will either be the date the response is received or the date of the technical deficiency letter (as described in [Section IV.D](#)).
2. A phone log will be kept that details the name of the person contacted, the day and time of the conversation, and notes for all communications regarding the technical review. All phone logs will be retained with the application file during and following final action on the application, or otherwise a database or spreadsheet will be used and made accessible to allow others to check latest correspondence for a case if the DEP Application Manager is out of the office.
 3. In the event the DEP/CCD Application Manager is unable to contact the applicant or consultant by phone after two attempts, or if a phone message is not returned after two business days, the DEP Application Manager will proceed to [Section IV.D](#).
 4. 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 minor technical deficiencies have been addressed, the DEP/CCD Application Manager will follow the steps in [Section IV.B](#), above.
 5. If a submission is not received or if a submission is received but does not correct the original minor technical deficiencies, the DEP Application Manager will proceed to [Section IV.D](#).
- D. Determination – The application contains technical deficiencies.
1. If the application, including E&S and PCSM Plans, contains technical deficiencies or if the applicant does not respond to or correct the minor technical deficiencies, the DEP Application Manager will prepare and send a [Technical Deficiency Letter \(34\)](#), which will be signed by the DEP Permits Chief or CCD Engineer (if the CCD is PCSM delegated and upon mutual agreement between DEP and the CCD). If the DEP Application Manager prepares the deficiency letter, the WMS template at *Chapter 102 Letters – 30 Technical Deficiency Letter* will be used.

NOTE 23 – Only one (1) technical deficiency letter will be sent.

NOTE 24 – If the CCD is not PCSM-delegated, the CCD Application Manager will provide the DEP Application Manager or Permits Chief with a list of the technical deficiencies with the E&S Plan, including the statutory or regulatory citations, through email.

NOTE 25 – If the CCD is PCSM-delegated, the CCD Application Manager or CCD Engineer will prepare the technical deficiency letter and send it to the applicant and copy DEP, upon mutual agreement between DEP and the CCD.

- a. PAYback will not be void based on technical deficiencies.
- b. The technical deficiency letter will cite the statutory or regulatory requirement(s) that were not met.
- c. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the technical deficiency letter is transmitted.
- d. The DEP Application Manager will enter the subtask “SDN” into eFACTS. The Begin Date will be the date of the technical deficiency letter and the Due Date will be the date that the response to the letter is to be submitted. The End Date will either be the date the response is received, the date of the withdrawal or the date the application enters the Elevated Review.



- e. The applicant will be given 30 calendar days to respond unless otherwise warranted based on consultation with the DEP Program Manager/Permits Chief. This 30 calendar-day period is referred to as the deficiency correction period. If the applicant does not respond within the deficiency correction period, the Application Manager will proceed to [Section IV.D.5](#), below.
- f. The applicant may request, in writing, to extend the time to respond beyond the initial deficiency correction period. The request must identify the additional amount of time to respond and the justification/reason for the extension. If a request is submitted, the DEP Application Manager will coordinate with the DEP Permits Chief or Program Manager to decide whether to grant the extension. The DEP Application Manager will prepare and send the ***Extension Request Letter*** using the WMS template at *Chapter 102 Letters – 11 Extension Request Letter*. Unless otherwise warranted based on consultation with the DEP Program Manager/Permits Chief, the time to respond will not exceed an additional 15 calendar days.

NOTE 26 – In order for the extension request to be considered, the justification must relate to the technical deficiencies identified and not related to revisions to the plan/project from another approving agency (e.g., municipality, PennDOT, etc.). If the extension request is related to another approving agency's comments, the request will not be granted and the applicant should consider withdrawing their application.

- i. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date of the extension request letter, whether the extension was granted or not, and the new date of when the response is due.
 - ii. The DEP Application Manager will create the "SREL" subtask in eFACTS. The Begin Date will be the of the requested extension, the Due Date will be the response date the response is due and the End Date will be the date of extension request letter. A comment will be added to the "SREL" subtask identifying if the requested was granted or not. If the request is granted, the "SDN" Due Date will be updated to the new due date of the response.
2. The DEP Application Manager will publish public notice and transmit a draft permit to the applicant (or, upon mutual agreement between DEP and the CCD, the CCD Engineer may transmit the draft permit) indicating a tentative decision to issue the permit (in accordance with [Section VI](#)) at the time the technical deficiency letter described in [paragraph D.1](#) above is sent when the DEP Program Manager and/or Permits Chief (or the CCD Engineer) determines the conditions in paragraphs a through c below are satisfied:
- a. The technical deficiencies can be addressed adequately within the deficiency correction period without a substantive re-design to the project or project BMPs. Examples of technical deficiencies that would typically not include a substantive re-design include, but are not limited to, the following:
 - Utilities or rights-of-way are not identified on PCSM Plan Drawings;
 - A standard rock construction entrance is proposed but cannot be used because the project is located in an impaired watershed and must use Antidegradation Best Available Combination of Technologies (ABACT) BMPs
 - A BMP such as a turbidity curtain is discussed in E&S Module 1 but is not identified on E&S Plan Drawings;
 - Critical stages of construction for all PCSM BMPs are not identified;
 - Items are missing from the construction sequence;
 - A line type was not identified properly in the legend of a Plan Drawing;
 - Riprap apron calculations are incorrect, and a different rock size may be needed; and
 - Off-site support areas are known but were not identified on Plan Drawings.



- b. It is likely that following receipt of the applicant's response to the technical deficiency letter, DEP would move forward to issuance of a final permit (i.e., Elevated Review as described in [Section V](#) is unlikely to occur).
 - c. Site-specific special conditions will not be necessary for the final permit or such conditions can be developed and included in the draft permit.
 - d. If the conditions in paragraphs 2.a through 2.c above are not satisfied, a technical deficiency letter will be sent to the applicant without a draft permit. Technical deficiencies that would not satisfy condition (a) and would likely require a substantive re-design to the project or project BMPs include, but are not limited to, the following:
 - There was insufficient infiltration testing and the use of Managed Release Concept (MRC) BMPs cannot be assumed based solely on the site being located in a karst region
 - An E&S BMP is being proposed as an alternative BMP that has not been properly reviewed and approved
 - A PCSM BMP is identified on Plan Drawings in an area that was identified in the PNDI receipt as an area to avoid;
 - Riparian buffer impacts will occur and an equivalency demonstration or offsetting proposal was not provided
 - Wetlands on the project site that will receive runoff were not identified or evaluated
 - The peak rate calculations do not analyze a 24-hour storm event
 - The application did not properly identify potential soil pollutants based on past site use and/or spills.
3. If a submission is received (receipt by email or fax is acceptable except when original signatures, plans or seals are needed) within the deficiency correction period the DEP Application Manager will follow the steps in [Section IV.E](#), below.
 4. If the applicant voluntarily elects to withdraw the application in writing, the Application Manager will prepare and send the [Voluntary Withdrawal Letter \(33\)](#), which will be signed by the DEP Program Manager/Permits Chief.
 - a. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the withdrawal letter is transmitted.
 - b. DEP administrative staff or the DEP Application Manager will close the COMPL task and subtask by entering the End Date as the date the deficiency correction period ended, dispose the authorization in eFACTS by selecting "Withdrawn" for the disposition code, and enter the date of the withdrawal letter in the field for date disposed.
 - c. DEP/CCD will retain one copy of the application package and the withdrawal letter in its official files for a period no less than 60 days. After the 60 days, the file may be purged with only the withdrawal letter retained.
- NOTE 27** – If an application is withdrawn, no *Pennsylvania Bulletin* notice is required.
- NOTE 28** – If an application is withdrawn, the Base Administrative Filing Fee (\$1,500) and Disturbed Acreage Fee will not be refunded. However, the Disturbed Acreage Fee does not have to be re-paid upon submission of a new application for the exact same project (whether or not it is the same applicant). A new Base Administrative Filing Fee (\$1,500) must however be paid for a new application.
5. If the applicant does not respond to the technical deficiency letter by the deadline provided, the DEP Application Manager will consider the application to be withdrawn and PAYback void, and DEP/CCD will follow the steps in [paragraph D.4](#), above, except the [Deemed Withdrawn Letter \(05\)](#) will be sent.

E. Second Technical Review.

If a submission is received by the end of the deficiency correction period, the Second Technical Review process will begin. The review period objective for the Second Technical Review is 22 business days from the date the submission is received.

1. The DEP Application Manager will enter the End Date for the open “ER” subtask as the date that the first technical review was completed. Then the Application Manager will enter a new “ER” subtask, with the Begin Date of when the response submission was received and the Due Date will be 22 business days from the receipt of the response submission. The End Date will be when the second technical review has been completed.
2. The CCD and/or DEP Application Manager will conduct a technical review of the revised application, including E&S and/or PCSM Plans, in accordance with [Section IV.A](#), above.
3. If the revised application, including E&S and/or PCSM Plans, does not contain technical deficiencies, the CCD and/or DEP Application Manager will follow the steps in [Section IV.B](#), above.
4. If the revised application, including E&S and/or PCSM Plans, contains technical deficiencies that are determined to be minor (i.e., an item that in the CCD and/or DEP Application Manager’s judgment can be corrected within two business days), the DEP Application Manager will follow the steps in [Section IV.C](#), above.
5. If the revised application, including E&S and/or PCSM Plans, contains technical deficiencies that are determined to be significant or if the applicant does not respond to or correct the minor technical deficiencies, the DEP Application Manager will proceed to [Section V](#).
6. If the response to a technical deficiency letter results in a substantive re-design of the project or project BMPs (changes significant enough such that DEP would categorize the resubmission as a new application), or results in new or relocated discharge points, and a draft permit was previously issued, the DEP Program Manager and/or Permits Chief will do one of the following:
 - a. Contact the applicant and request that the applicant voluntarily withdraw the application (voiding PAYback); or
 - b. Notify the applicant that DEP/CCD will return to the initial technical review phase ([Section IV.A](#)) and will make a new tentative decision on the application, issue a new draft permit, update the fact sheet, republish notice in the *Pennsylvania Bulletin*, and repeat applicable steps of the process in [Section VI](#).

V. Elevated Review Process (Application Manager & DEP Program Manager and Permits Chief)

If the response to a technical deficiency letter does not correct the technical deficiencies, the application will move to the Elevated Review Process. The applicant can also request the Elevated Review Process at any time during the Technical Review of the application. The Elevated Review Process will be as follows:

- A. The DEP Application Manager will coordinate with the CCD Application Manager as necessary to prepare and transmit the [Notice of Elevated Review Memo \(21\)](#) to DEP’s Program Manager and Permits Chief. For PCSM-delegated CCDs, the CCD Application Manager will prepare and transmit the Memo. The notice of elevated review memo will identify all technical deficiencies and will cite the statutory or regulatory requirement(s) that were not met. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date when the notice of the elevated review memo was sent to DEP’s Program Manager.

- B. DEP/CCD staff will discuss and agree on next steps, which may include making a permit decision, scheduling a meeting or call with the applicant and their consultant, and/or providing an additional opportunity to correct technical deficiencies through the transmission of a [Notification of Elevated Review Letter \(19\)](#).
1. If a permit decision will be made, the DEP Application Manager will proceed to [Section VI](#).
 2. Otherwise, the DEP Application Manager will create an “ELEV” subtask in eFACTS. The Begin Date will be the date the application entered elevated review, the Due Date will be the date the response is due, and the End Date will be the date the submission response is received.
- If a meeting will be held, the DEP Application Manager will proceed to [Section V.C](#). If a notification of elevated review letter will be sent without scheduling a meeting, the DEP Application Manager will proceed to [Section V.D](#).
- C. If a meeting will be held, the DEP Application Manager will schedule the Elevated Review with the applicant and then send a [Notice of Elevated Review Meeting Letter \(20\)](#), signed by the DEP Program Manager/Permits Chief, to the applicant as early as possible before the meeting.
1. The applicant and their consultant should review the notice of elevated review meeting letter and come to the meeting prepared to discuss resolution of the technical deficiencies. A response submission is not expected or encouraged for the meeting.
 2. The attendees at the meeting should include the DEP Program Manager, the DEP Application Manager, the CCD Manager (if the CCD is the initial recipient of the application), the applicant, and the applicant’s consultant, at a minimum.
 3. If the meeting results in an agreement to resolve the technical deficiencies, the applicant will be given 10 business days from the date of the meeting to provide a response. The DEP Regional Director may provide the applicant with up to an additional 10 business days to respond upon receipt of a written request from the applicant.
 4. If the meeting results in no agreement to resolve the technical deficiencies, DEP’s Regional Director will consult with the Bureau of Clean Water Director and, as necessary, the Deputy Secretaries of Water Programs and Field Operations, to arrive at a decision on the application. Once the decision is communicated to the DEP Application Manager, the DEP Application Manager will proceed to [Section VI](#) or otherwise conduct additional steps at the direction of DEP’s Program Manager.
- D. If a notification of elevated review letter will be sent, it will be signed by the DEP Program Manager/Permits Chief.
1. The notification of elevated review letter will cite the statutory or regulatory requirement(s) that were not met.
 2. The applicant will be given 10 business days to respond. If the applicant does not respond within the 10 business days, the DEP Application Manager will proceed to [Section VI](#). If the applicant responds within 10 business days, the DEP Application Manager will review the resubmission within 5 business days and then consult with the DEP Program Manager and Permits Chief on the response and proceed to [Section VI](#).
- E. If a submission is received and all technical deficiencies have been corrected, the Application Manager will close the “ELEV” eFACTS subtask and proceed to [Section VI](#). The Application Manager will (in the “DEP/CCD Use Only” box on the first page of the application) identify the Date of Resubmission Received, for paper applications.

VI. Tentative Permit Decision

Following the technical review of applications, the DEP/CCD Application Manager will complete the following steps.

A. Complete Fact Sheet.

1. If a CCD is the initial recipient of an application, the CCD Application Manager will complete the general information, Application Completeness Review Checklist, E&S Technical Review Checklist and, if the CCD is PCSM-delegated, the PCSM Technical Review Checklist of the [Chapter 102 Fact Sheet](#).
 - a. The CCD Application Manager, CCD Engineer (if PCSM-delegated) and the CCD Manager or Supervisor will sign the Fact Sheet and provide an electronic copy of the Fact Sheet to the DEP Application Manager or Permits Chief following the CCD Application Manager's technical review of the application.
 - b. The DEP Application Manager will complete any remaining portions and sign the Fact Sheet. Site-specific permit conditions will be identified and explained in the Fact Sheet, if applicable.
2. If DEP is the sole recipient of an application, the DEP Application Manager will complete the Fact Sheet in full, identifying and explaining any site-specific permit conditions, and sign the Fact Sheet.

B. Prepare Tentative Denial Letter or Draft Permit Package.

1. If a tentative decision is made to deny the application, the DEP Application Manager or CCD Engineer (if PCSM-delegated and upon mutual agreement between DEP and the CCD) will:
 - a. Prepare the [NPDES IP Draft Permit Letter – Denial \(23\)](#) letter (pre-denial letter), which will be reviewed and signed by the DEP Program Manager or Permits Chief and then sent to the applicant. If the DEP Application Manager prepares the pre-denial letter, the WMS template at *Chapter 102 Letters – 23 NPDES IP Draft Permit Letter – Denial* will be used.
 - b. Prepare a notice which should be published in the special notices section of the *Pennsylvania Bulletin* or as otherwise determined by the DEP regional office using the [Tentative Denial Public Notice \(34\)](#) template. If the DEP Application Manager prepares the pre-denial letter, the WMS template at *Chapter 102 Letters – 34 Tentative Denial Public Notice* will be used.
 - c. The DEP Application Manager will enter a "PL" subtask into eFACTS with the Begin Date as the date of the pre-denial letter and the End Date as 30 days following publication of the notice in the *Pennsylvania Bulletin*.
 - d. The pre-denial letter and public notice documents in WMS will be set to a status of "Issued (Mailed)".

NOTE 29 – Issuance of a pre-denial letter may be done in conjunction with the elevated review (Section V). If this approach is selected, the pre-denial letter should include information contained in the [Notification of Elevated Review Letter \(19\)](#) and the elevated review should be completed by the end of the public comment period for the tentative denial.

2. If a tentative decision is made to issue the permit, the DEP Application Manager (or the CCD Engineer if approved by DEP) will prepare the draft permit package, including the following documents:
 - a. The draft permit using the WMS template at *Chapter 102 Permits – Individual NPDES Permit*. A "DRAFT" watermark will be placed on all pages of the draft permit, the effective and expiration dates on page 1 will be left blank, and the DEP Program Manager will not sign the draft permit.



NOTE 30 – No modifications may be made to Parts A and B of the Individual NPDES Permit templates without prior approval of DEP’s Bureau of Clean Water.

NOTE 31 – All draft permits issued for new projects, renewals, and major amendments after December 7, 2024, should be issued utilizing the Individual NPDES Permit template dated 12/2024 or later. Minor amendments and transfers may continue to operate under the permit they currently have.

- b. If there are no technical deficiencies, the ***NPDES IP Draft Permit Letter – Issue*** letter using the WMS template at *Chapter 102 Letters – 24 NPDES IP Draft Permit Letter*. If there are technical deficiencies (that would not involve a substantive re-design as explained in Section IV.D.2 above), the DEP Application Manager should use the WMS template at *Chapter 102 Letters – 36 NPDES IP Draft Permit and Technical Deficiency Letter*. The applicable letter will be reviewed and signed by the DEP Permits Chief or CCD Engineer, if approved by DEP.
- c. A public notice for posting by the applicant, which is to be included as an attachment to the draft permit cover letter, using the WMS template at *Chapter 102 Letters – 35 Draft Permit Public Notice for Posting*.
- d. The draft permit, cover letter, and public notice in WMS will be set to a status of “Issued (Mailed)”.

NOTE 32 – The fact sheet does not need to be transmitted to the applicant but must be made available to the applicant and to the public upon request.

3. DEP administrative staff or the DEP Application Manager will enter a “DP” Subtask Begin Date in eFACTS as the date the draft permit was transmitted to the applicant. If the Public Notice will be submitted to the PA Bulletin Solution on a deadline date then back date the “DP” Subtask Begin Date by one day.
4. The Application Manager will provide the Fact Sheet and tentative denial letter or draft permit package to the DEP Permits Chief (or the CCD Engineer for draft permits) for review and approval. When approved, the DEP Permits Chief will sign the Fact Sheet and the tentative denial letter or the draft permit cover letter (or the CCD Engineer will sign the fact sheet and draft permit cover letter).

NOTE 33 – A draft Individual NPDES Permit cannot be issued until the DEP Permits Chief signs the fact sheet. A pre-denial letter cannot be issued until the DEP Permits Chief or CCD Engineer signs the fact sheet.

5. If a tentative decision is made to deny the application, DEP administrative staff or the DEP Application Manager (or CCD staff) will mail the tentative denial letter to the applicant via certified mail or other means to ensure receipt by the applicant. DEP administrative staff or the DEP Application Manager (or CCD staff) will also transmit a copy of the tentative denial letter to the applicant’s consultant (if applicable), the CCD (if applicable), and the municipality by mail (does not need to be certified) or email.
6. If a tentative decision is made to issue the permit, DEP administrative staff or the DEP Application Manager (or CCD staff when approved by DEP) will mail or email the full draft permit package (see [paragraph B.2](#) above) to the applicant. DEP administrative staff or the DEP Application Manager (or CCD staff) will also transmit a copy of the draft permit cover letter (at a minimum) by mail or email to the applicant’s consultant (if applicable), the CCD (if applicable), and the municipality.
7. Prior to issuing the draft permit the DEP Application Manager or compliance staff will conduct a compliance history review to determine whether there are any outstanding violations that may prevent final permit issuance. This step may be completed earlier, at DEP’s discretion. If outstanding violations are identified, the Application Manager or DEP Permits Chief will identify the violations in the draft permit cover letter and provide notice that DEP may be unable to issue a final permit if the violations are not corrected.



8. DEP administrative staff or the DEP Application Manager will submit notice of draft permits to the [PA Bulletin Solution](#) under Template Type: 01_Applications, Template Sub Type: 01_NPDES_Federal, and Template Name: 03_##_NPDES_102_Stormwater_Individual using the information in the **Draft Permit Public Notice for Posting (35)** template. Notice of tentative denials will be submitted under Template Type: 03_Special_Notice, Template Sub Type: 01_Water_Programs, and Template Name: 01_##_Water_Programs by uploading the [Tentative Denial Public Notice \(34\)](#).

NOTE 34 – This publication into the *Pennsylvania Bulletin* will satisfy the requirements of 25 Pa. Code §§ 92a.82(a) and 92a.82(b) (i.e., notification to the public of both the receipt of an application as well as DEP’s tentative determination to issue a permit).

C. Following Public Comment Period.

1. No Applicant or Public Comments Received.

If no applicant or public comments are received within the 30-day comment period following publication in the *Pennsylvania Bulletin*, the DEP Application Manager will check the appropriate box on the Fact Sheet and proceed to [Section VII](#).

2. Applicant and/or Public Comments are Received.

- a. The DEP and CCD Application Managers will review the comments received from the applicant (or the applicant’s consultant) and decide whether the draft permit or plans should be modified as a result of the comments. The DEP Application Manager will consult with the DEP Program Manager, DEP Permits Chief, and CCD Engineer if applicable and as necessary. Upon final decision, the applicant’s comments will be addressed in the final permit decision letter. In general, DEP Bureau of Clean Water should be contacted for assistance where comments concerning the standard language of the permit are made. The DEP Application Manager will check the appropriate box on the Fact Sheet concerning the receipt of applicant comments and proceed to [Section VII](#).

- b. The DEP and CCD Application Managers will review the 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 25 Pa. Code § 92a.82(d) for non-EV surface waters or at least one request for EV surface waters, or if the DEP Program Manager otherwise determines that there is “significant public interest” in holding a public hearing, the DEP Application Manager will coordinate with the DEP Regional Community Relations Coordinator to schedule a public hearing and comply with 25 Pa. Code § 92a.83 concerning public notice.

- i. Upon determining that a public hearing will be held, the DEP Application Manager will create the “PH” subtask in eFACTS. The Begin Date will be the date it is determined that a public hearing is needed, the Due Date will auto-populate, and the End Date will be the date the Comment-Response document is completed.

- ii. Following the hearing and receipt of the hearing transcript, the DEP Application Manager will prepare a Comment-Response document with the assistance of the CCD Application Manager and CCD Engineer, if applicable, that addresses all comments received during the public comment period and hearing. The Comment-Response document will be attached to the final permit decision letter.

- iii. If public comments are received and a public hearing is not held, the DEP and CCD Application Managers will review the comments and decide whether the draft permit or plans should be modified as a result of the comments. The DEP Application Manager will consult with the DEP Program Manager, DEP Permits Chief, and CCD Engineer if applicable and as necessary. A Comment-Response document will not be prepared unless determined otherwise by the DEP

Program Manager. However, the Fact Sheet will be updated to summarize public comments and explain how they were considered in the final decision.

- iv. If a Comment-Response document is prepared, a copy of the document and the final permit cover letter will be mailed to all commenters.

NOTE 35 – CCD staff are not expected to propose responses to public comments outside the scope of Chapter 102, nor are they expected to propose responses on issues regarding statewide policy or other matters clearly requiring input from DEP counsel. However, some comments may seem outside the scope of Chapter 102, but CCD assistance in crafting the response may still be needed. For example, since the CCD reviews PNDI receipts and clearances, public comments related to threatened and endangered species may require assistance for DEP to appropriately address the comment. DEP considers the preparation of a Comment-Response document to be a cooperative effort between CCD and DEP.

- c. If the DEP Program Manager determines that there is significant public interest in the project and substantive changes have been made to the project design or project BMPs since the notice of the draft permit was published, then DEP may opt to make a new tentative decision on the application, issue a new draft permit, update the fact sheet, republish notice in the *Pennsylvania Bulletin*, and repeat any other applicable steps described above in this section.

- D. The DEP Application Manager will check the appropriate box on the Fact Sheet and proceed to [Section VII](#).

VII. Permit Decision and Final Processing (Application Manager and DEP/CCD Manager)

- A. Decision – Issue Final Permit.

DEP may not issue a final permit until the 30-day public comment period has ended.

1. The Application Manager will prepare the **NPDES IP Issuance Letter** (final permit cover letter) using the WMS template at *Chapter 102 Letters – 25 NPDES IP Issuance Letter* and the final Individual NPDES Permit. Both of these documents will be signed by the DEP Program Manager. The DEP Application Manager or DEP administrative staff will transmit permit documentation through email in PDF format (if available) or mail as follows:
 - a. Permittee (if there is more than one permittee, each permittee will receive the information):
 - Original final permit cover letter, signed by the DEP Program Manager;
 - Final Individual NPDES Permit, signed by the DEP Program Manager, where the issuance date will be the date of planned issuance, the effective date will be the same date as the issuance date, and the expiration date will generally be five years minus one day following the effective date;
 - Comment Response document, if applicable; and
 - If applicable, the [PA Stream Buffer Tracking Form](#) (DEP Document No. 3020-FM-CBO0100).
 - b. Permittee's Consultant and Municipalities (if there is more than one municipality, each municipality will receive the information): Copy of the final permit cover letter, a copy of page 1 of the final Individual NPDES Permit (or the full permit), and the Comment Response document, if applicable.
 - c. CCD Office: copy of the final permit cover letter and copy of the final Individual NPDES Permit (may be submitted electronically).
 - d. DEP Bureau of Clean Water (via RA-102PermitForms@pa.gov): electronic copies of the approved application, the final permit cover letter, and the final Individual NPDES Permit.

2. The Application Manager will record the issuance date, effective date and the expiration date in the "DEP/CCD Use Only" box on the first page of the application, for paper applications.
3. If a CCD is the initial recipient of an application, CCD administrative staff will:
 - a. Record the issuance date, effective date and expiration date into an electronic data system within 5 business days of the final action.
 - b. Record the Individual NPDES Permit in EPA's ICIS database within 15 business days of the final action.
4. The DEP Application Manager or administrative staff will:
 - a. Close all tasks and subtasks in eFACTS using End Dates corresponding to the date of the final decision to issue a final Individual NPDES Permit.
 - b. Set all final documents in WMS to a status of "Issued (Mailed)", check the box for "Final", and upload the documents to OnBase.
 - c. Dispose the authorization in eFACTS by entering the issuance date in the "Date Disposed" field, the effective date in the "Effective" field, and the expiration date in the "Expires" field and selecting "ISSUE" for the disposition. **Do not** back date the "Date Disposed." Proper disposition of the authorization will allow for automatic *Pennsylvania Bulletin* posting.
5. The application file (including all supporting documentation such as the Fact Sheet) will be retained at DEP's and CCD's offices in accordance with DEP's record retention schedule for Chapter 102 permits.

B. Decision – Deny Application.

If, during the 30-day comment period after notice of a tentative denial of an application is published in the *Pennsylvania Bulletin*, DEP receives information that results in a change to the tentative decision from denial to issuance, the DEP Application Manager will return to [Section VI](#). Otherwise, DEP will proceed to deny the application as described below. DEP/CCD may not deny an application in which a tentative denial of an application is published until the 30-day public comment period has ended.

1. The DEP Application Manager will prepare the ***NPDES IP Denial Letter*** (denial letter) using the WMS template at *Chapter 102 Letters – 22 NPDES IP Denial Letter*. The letter will be sent to and signed by the DEP Program Manager. The letter will identify the statutory and regulatory requirement(s) that have not been met, and respond to any comments provided by the applicant during the comment period.
2. The DEP Application Manager will check the appropriate box for "Denied" and record the date of the denial letter in the "DEP/CCD Use Only" box on page 1 of the application, if submitted on paper.
3. Where a CCD is the initial recipient of an application, the CCD will update a record of the application in an electronic system to include the date the denial letter is transmitted.
4. The DEP Application Manager or administrative staff will update eFACTS as follows:
 - a. Complete the "COMPL" subtask, by entering the End Date as the date of the denial letter.
 - b. Enter a "DENC" subtask, with Begin, Due and End Dates as the date of the denial letter.
 - c. Set the denial letter in WMS to a status of "Issued (Mailed)", check the box for "Final", and upload to OnBase.



- d. Dispose the authorization in eFACTS by selecting “Denied” for the disposition code and enter the date of the denial letter in the field for date disposed. Proper disposition of the authorization will allow for automatic *Pennsylvania Bulletin* posting.
5. DEP/CCD will retain one copy of the application package and denial letter in its official files for a period no less than 90 days.

ATTACHMENT A

PROCEDURES FOR THE REVIEW OF INDIVIDUAL CHAPTER 102 PERMIT APPLICATIONS FOR CONTAMINATED SITES

A common reason for the receipt of Individual Chapter 102 Permit applications is that the project site where earth disturbance activities are proposed has on-site soils that are “contaminated” and therefore cannot be covered by a General Permit. In addition, DEP may require an Individual Chapter 102 Permit where groundwater is contaminated due to the potential for site activities to increase groundwater contamination and/or cause off-site migration of a plume. For the purpose of this SOP, regardless of whether the cause is anthropogenic or could be considered background, contaminated groundwater is groundwater containing concentrations of pollutants in excess of the medium-specific concentrations (MSCs) contained in Chapter 250, Appendix A, Tables 1 and 2 (Used Aquifers, TDS \leq 2500 mg/L) for residential and non-residential sites, as applicable. Contaminated soils are soils containing concentration of pollutants in excess of the MSCs contained in Chapter 250, Appendix A, Tables 3 and 4 (Soil to Groundwater Numeric Values, Used Aquifers, TDS \leq 2500 mg/L) for residential and non-residential sites, as applicable.

The procedures set forth in this attachment will be completed by DEP and delegated county conservation districts (CCDs) to address the potential for pollution on contaminated sites. Applicants are expected to follow the instructions in DEP’s Individual NPDES Permit Application Instructions document (3800-PM-BCW0408a), which includes the following procedures for contaminated sites:

1. Utilization of DEP’s [PACT tool](#) and scheduling of a meeting through the Assistant Regional Director of the appropriate DEP regional office if a project will involve more than one DEP program (required if applicable).
2. Scheduling of a pre-application meeting for the Chapter 102 Individual NPDES Permit application with DEP and CCD (required).
3. For sites with contaminated soils, utilization of erosion and sediment control (E&S) best management practices (BMPs) that are identified in DEP’s E&S Manual or Alternative BMPs list as Antidegradation Best Combination of Available Technologies (ABACT) BMPs, at a minimum.
4. For sites with contaminated soils, soil sample locations (including depth of soil samples) and soil pollutant concentrations should be included on E&S Plan Drawings and a narrative explanation of how disturbance on the site will be minimized and areas with elevated soil pollutant concentrations will be avoided to the extent practicable should be provided. Areas subject to covenants and restrictions should also be identified on Plan Drawings.
5. For sites with contaminated soils, evaluation by a licensed Professional Geologist (PG), certified Soils Scientist, or other licensed professional with experience and training in the fate and transport of pollutants in soils to 1) determine additional E&S BMPs that should be implemented during construction activities to minimize the discharge of pollutants, and 2) determine the feasibility of infiltration-based post-construction stormwater management (PCSM) stormwater control measures (SCMs).
6. Preparation and submission of a health and safety plan for on-site workers and inspectors.

NOTE 1 – The presence of contaminated soils on a site does not provide automatic justification for omission of pre-development site characterization testing for PCSM considerations and use of Managed Release Concept (MRC) SCMs unless it can be demonstrated that there are no feasible areas for infiltration-based SCMs or other SCMs on a site due to sitewide contamination at soil horizons that could be used for infiltration or other volume management functions.

NOTE 2 – If soil pollutant concentrations at the soil horizon where infiltration is planned exceed soil to groundwater MSCs, the applicant will need to demonstrate through modeling or use of a synthetic precipitation leaching procedure (SPLP) test that infiltrated stormwater will not increase groundwater pollutant concentrations.

7. For sites with contaminated groundwater, evaluation by a licensed Professional Geologist (PG) or other licensed professional with training and experience in hydrogeology to determine whether infiltration-based PCSM SCMs will

promote off-site migration of a contaminant plume through the use of modeling software such as MODFLOW or GSFLOW.

8. Inclusion of notes on E&S and PCSM Plan Drawings to instruct contractors on special measures that must be taken during construction (e.g., see Chapter 17 of DEP's E&S Manual).
9. If the site is undergoing remediation in DEP's Environmental Cleanup and Brownfields (ECB) Program, coordination with appropriate DEP staff on the proposed earth disturbance activities.

I. Pre-Application Meeting

- A. When coordinating the pre-application meeting with the applicant, DEP/CCD staff will inform the applicant that it is expected that all of the necessary evaluations and studies as set forth in the Individual NPDES Permit Application Instructions document will be completed prior to the meeting and the results will be discussed at the meeting.
- B. Wherever possible, DEP staff from the Waterways and Wetlands (W&W) Program and Major Projects Permitting Division (MPPD) will participate in the required pre-application meeting with CCD staff. If another DEP program has had prior involvement with contamination issues on the site, including but not limited to DEP's ECB Program and Waste Management Program, staff from those programs will be invited.

NOTE 3 – If a PACT meeting was previously held that included programs involved with contamination issues on the site it may not be necessary to include those programs in the pre-application meeting.

- C. If the applicant has not completed all prerequisite evaluations and studies by the pre-application meeting, DEP/CCD staff will inform the applicant that they should not submit the application until the studies are provided to DEP and DEP confirms they are adequate. If the application is submitted without the prerequisite studies it will be considered incomplete.

II. Completeness and Technical Review

- A. CCD staff will verify that the evaluations and studies required by the Individual NPDES Permit Application Instructions have been completed but are not expected to conduct a technical review of this information. CCDs will verify that ABACT BMPs, at a minimum, are proposed.
- B. DEP's W&W Program will coordinate with DEP's ECB Program, Waste Management Program, and/or MPPD, as applicable, to evaluate the adequacy of proposed E&S BMPs and the appropriateness of proposed PCSM BMPs for the project. The W&W Program will request documentation from ECB, Waste Management, and/or MPPD on any specific concerns and the W&W Program will include this documentation with the Chapter 102 Fact Sheet as part of the technical review prior to issuance of a draft permit or tentative denial and publication in the *Pennsylvania Bulletin*. The W&W Program may use the "CRR" subtask in eFACTS for the time taken to coordinate with the ECB or Waste Management Programs or MPPD. The W&W Program will prepare Part C special conditions for the Individual Permit as necessary.
- C. Where there is contaminated groundwater on a site and construction dewatering activities are expected for groundwater, W&W Program staff will notify the applicant that they must request separate NPDES authorization from DEP's Clean Water Program and obtain this authorization prior to discharging construction dewatering water. W&W Program staff will include a special condition in Part C of the Individual NPDES Permit that requires this authorization prior to discharging.

PROCESS FLOW(S)

Figure 1: Overview of Individual NPDES Permit Administrative Process – Part 1

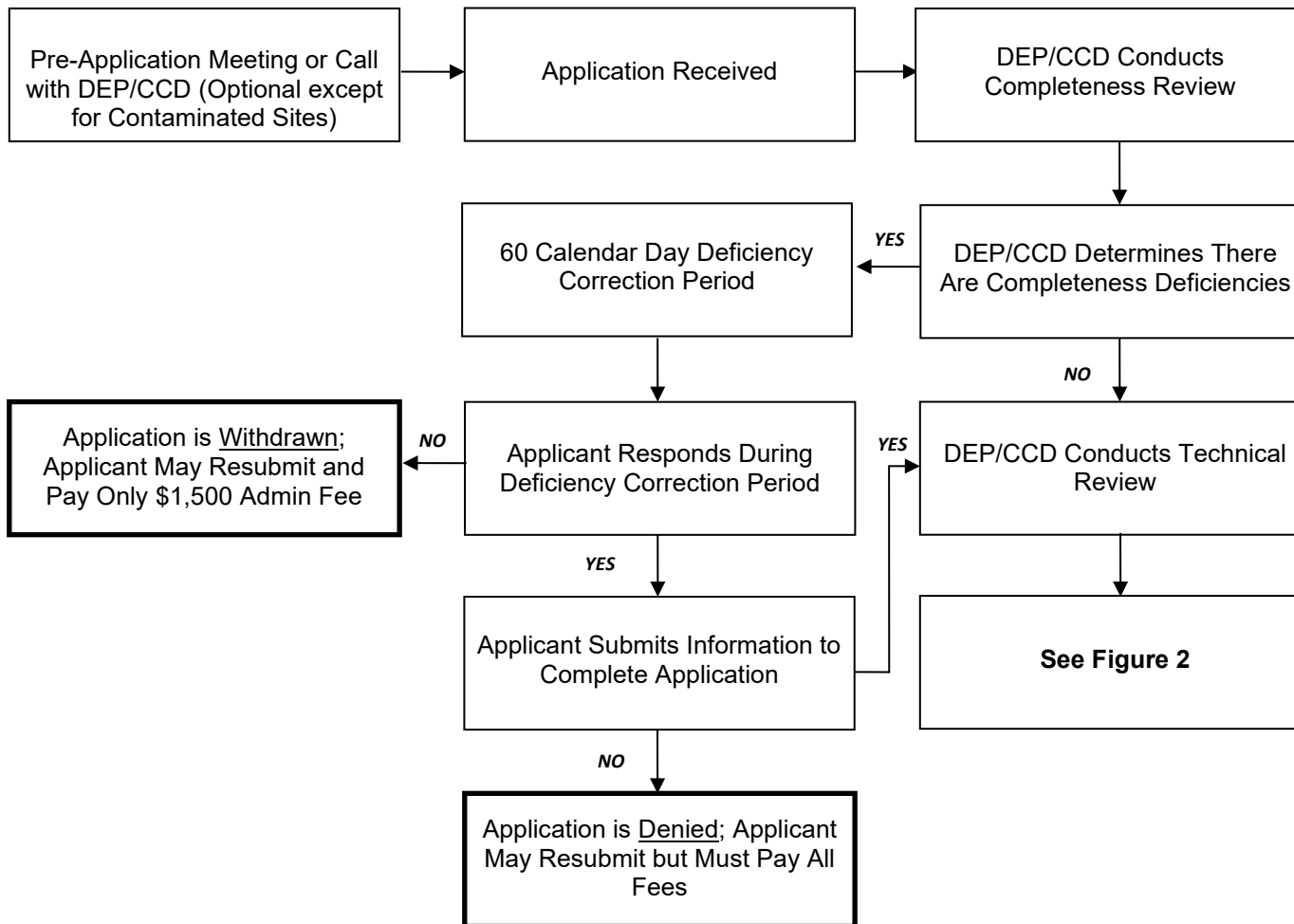
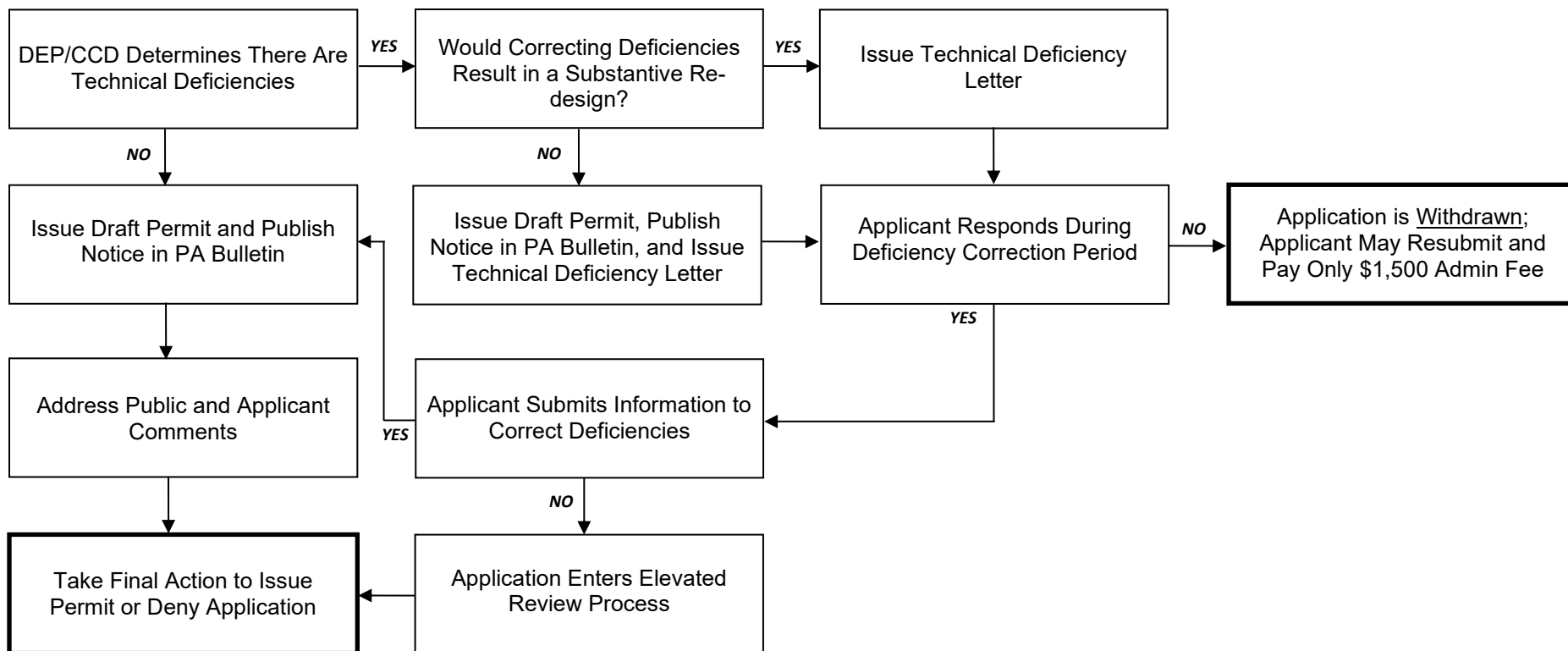


Figure 2: Overview of Individual NPDES Permit Administrative Process – Part 2



Version History

Date	Version	Revision Reason
1/30/2026	1.9	Added Section II.D.2.g and II.D.2.h relating to populating the fee category in eFACTS and validating the eFACTS authorization for WMS, respectively; added Section VI.B.7 relating to consideration of outstanding violations prior to issuing draft permits; added specifications for the use of Water Management System (WMS) templates; changed DEP RPCO to DEP Major Projects Permitting Division (MPPD).
4/28/2025	1.8	Removed Section VI.B.2.d and added NOTE 32 (a fact sheet is not required to be transmitted to an applicant with a draft permit but must be provided upon request).
12/24/2024	1.7	Added Attachment A for contaminated sites; added clarification that a pre-application meeting is required for new projects with known contamination; added information on the Commonwealth's PAYback initiative; and added flexibility for CCD Engineers to issue technical deficiency letters and draft permits when there is a mutual agreement between DEP and the CCD.
3/7/2023	1.6	Updated Sections IV, VI and VII to clarify <i>Pennsylvania Bulletin</i> notice requirements for tentative determinations and final actions; updated Section IV to address circumstances in which a draft permit and technical deficiency letter may be issued simultaneously; and clarified in Section IV that if an applicant does not reply to a technical deficiency letter the application will be considered withdrawn.
12/6/2021	1.5	Updated Section III.A.2 to clarify that for renewal applications, only the General Information, Compliance History and the Certification sections of the application must be completed and that a new GIF must be submitted with the Client and Certification sections completed.
1/4/2021	1.4	Updated Attachment B by adding item 7.i to the NOI Completeness Checklist relating to Managed Release Concept (MRC) BMPs.
4/27/2020	1.3	Updated Note 2 to clarify additional agencies that are exempt from Chapter 102 NPDES fees; added Note 6 to clarify that only DEP can issue Major Amendments and CCDs may issue Minor Amendments under certain circumstances; revised Section III.C.3 to identify the specific items that should be transmitted from CCDs to DEP regional offices; revised Section VII.A.1.a to specify that the permit effective date should be the same as the permit issuance date; revised Section VII.A.1.d to include Modules 2 and 4 on submissions to the Bureau of Clean Water's resource account; and made minor updates to the fact sheets in Attachments B and C.
1/10/2020	1.2	Updated Attachments B and C (Fact Sheets) to include regulatory citations for completeness review and technical review checklists.
12/16/2019	1.1	Clarified in Section III that the 15-business day completeness review period begins when Section (Step) II is completed; added Note 6 to clarify expectations for Compliance History section of application.
12/9/2019	1.0	Original