

**Standard Operating Procedure (SOP)<sup>1</sup> for Clean Water Program  
New and Reissuance MS4 Individual NPDES Permit Applications  
SOP No. BPNPSM-PMT-004  
Final, November 9, 2012  
Revised, December 1, 2014  
Version 1.6**

This SOP describes the procedures by which the Clean Water Program will process applications for new and reissuance (renewal) MS4 individual NPDES permits. The authorization type covered by this SOP is “MS4I” (NPDES Pmt Stormwater Discharges from Small Muni Separate Storm Sewer Sys MS4, Individual).

This SOP is intended to comply with DEP’s Policy for Implementing the Department of Environmental Protection (Department) Permit Review Process and Permit Decision Guarantee (021-2100-001) (“PDG Policy”). Only certain types of applications are subject to the Permit Decision Guarantee (PDG) described in the PDG Policy. New and renewal MS4 individual permit applications **ARE NOT** part of the PDG.

All MS4 individual permit authorizations will receive a permit number of “PAIXXXXXX” (9 digits), even if a waiver request has been attached to the application, unless the MS4 permit was already assigned a number starting with “PA0,” in which case that permit number may be maintained.

**NOTE** – If an application manager receives a waiver request application and believes there is a compelling basis for a waiver, the application manager will generally contact the Central Office Division of Planning and Permitting for consultation to ensure that waiver requests are reviewed consistently. If Central Office agrees that a waiver may be granted, this SOP still applies except that (1) a waiver letter will be issued in lieu of a permit, (2) the disposition of the authorization will be set to “Waived” instead of “Issued” in eFACTS, and (3) the public notice that is prepared upon issuance of the waiver will be placed in the MS4 Waiver section of the PA Bulletin.

The Clean Water Program will refer to existing guidance and the Bureau of Point and Non-Point Source Management’s Program Clarification Memo on Permit Coordination (March 5, 2013) when evaluating the need to coordinate issuance of individual NPDES permits with other permits.

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

For decision-making with respect to data management activities, administrative staff will follow the eFACTS Program-Specific Guidance for 92a NPDES Authorizations, Facilities and Fees.

When applications are received, administrative staff will promptly:

A. Create the authorization record in eFACTS.

1. Select the proper auth type code and verify that the correct fee was submitted.

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<sup>1</sup> **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.

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

If it is determined that the wrong fee category was selected on the application, and therefore the wrong fee amount was submitted, administrative staff will follow the latest version of Management Directive OAM-1000-01 (“Deposit of Fees, Fines, Penalties and Other Revenue”) to resolve the fee discrepancy.

**NOTE** – if an applicant was previously covered by the PAG-13 General Permit but now is required to obtain an individual permit, the fee for a new application applies.

**NOTE** – for Chapter 92a authorizations, the selected auth type must match the fee category of the linked primary facility (PF) to allow issuance of the authorization.

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

2. Prepare the physical check payment for transmission to the regional business office following Management Directive OAM-1000-01, and enter the fee payment against the authorization in eFACTS, unless the client is fee exempt. A copy of the check will be made and placed in the application file. Where the fee has not been submitted, treat it as an underpayment in accordance with the Management Directive.
  3. Select the proper application type (this SOP covers only NEW and RENEW), using the appropriate regional organization code. Where the client previously was covered by a General Permit and must now apply for an individual permit or the decision is otherwise made to convert the permit to an individual permit, the application type should be NEW.
  4. Associate the proper client and site to the project/authorization. If necessary, create the client, site, client/site relationship, at least one subfacility (SF) and the PF. Assign the proper fee category to the PF.
  5. Enter the date the application was received (“Recvd”) and the date administrative staff creates the authorization (“Admin”) into eFACTS’ Application Screen.
  6. If required by eFACTS to create the authorization, select the lead reviewer as the Permits Chief. If the Permits Chief identifies the application manager at this step, the assigned application manager may be selected for the lead reviewer.
  7. Select the Master Auth or set the current authorization to be the Master Auth, as appropriate.
  8. Create a subtask of “COMPL” (B/E Completeness Review) under the Completeness Review task in eFACTS, and enter a start date that corresponds to the date the application was received.
- B. Enter consultant information.

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

- C. Enter or otherwise review and update PF Details.
  - 1. Update PF Mailing Address (client address) and Location Address (site address) in accordance with the application, as necessary.
  - 2. Update the PF Kind to “Stormwater – Municipal” as necessary.
  - 3. Update the SIC or NAICS code for the PF per the application, as necessary, and identify one SIC and/or NAICS code as the “Primary” code. For municipalities the SIC code 9199 may be used.
  - 4. Ensure the Client ID and Other ID of the PF are identical to those for the authorization, otherwise update the PF.
- D. Push Master Auth to NMS (if not done so previously), unless the current auth is the Master.

If the current auth is not the Master Auth, ensure the Master Auth linked to the current auth has been pushed to NMS already (otherwise, push the Master Auth to NMS).
- E. Mail a complete copy of the application to Erie County Health Department (ECHD), Allegheny County Health Department (ACHD), or Delaware River Basin Commission (DRBC) if applicable, unless administrative staff is aware that the applicant mailed a copy directly to those agencies.

**II. Prioritization and Assignment (Permits Chief)**

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

- A. Prioritize the application in accordance with the “Permit Review Hierarchy” contained in DEP’s Policy (400-2100-001). The Permits Chief will note on the application file or a permit tracking sheet the hierarchy number as contained in the Policy.
- B. Assign an application manager (i.e., “lead reviewer”) to the application unless this has been done previously. The Permits Chief will enter the name of the application manager into eFACTS for the authorization unless administrative staff has already completed this step.
- C. Optionally, route a copy of the application or a permit tracking sheet to Operations staff for a determination of non-compliance issues that may affect permit issuance.
- D. Notify the regional Late Application Coordinator if the application is for a permit renewal and was submitted late.

**III. Completeness Review (Application Manager)**

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

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

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- A. Review the application for administrative completeness and overall technical adequacy. A complete and technically adequate application includes the following, not including the fee that is addressed in Step I:
1. One copy of the completed and signed individual permit application (3800-PM-BPNPSM0200d).
  2. The completed individual permit application checklist (3800-PM-BPNPSM0200e).
  3. Maps according to Section B.8 of the individual permit application (USGS topographic map(s) identifying municipal and urban area boundaries, and map(s) of discharge locations and receiving waters).
  4. If “Yes” is checked in Section F of the individual permit application, an MS4 TMDL Plan bearing the signature and seal of a PA-registered Professional Engineer.
  5. Per Section H of the individual permit application, a list of outfalls that discharge to impaired waters.
  6. If “Yes” is checked in Section J of the individual permit application, a Compliance History must be provided by the applicant.
  7. The application does not contain significant inconsistencies or errors including but not limited to municipal boundaries, urbanized area boundaries, receiving water bodies, impaired water bodies, and water bodies with approved TMDLs.

**NOTE** – In general, if the applicant submits an older application form that is not the most recent, the application manager may deem any information that is missing an insignificant or significant deficiency, at the application manager’s discretion. For example, outfalls that are missing latitude/longitude coordinates would generally be considered an insignificant deficiency. If the application is not denied as a result, the application manager will notify the consultant or applicant that a more recent version of the application is available for future use.

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

- C. Complete the following data management tasks in eFACTS:

1. Create, or otherwise review and edit, all Discharge Point (DP) subfacilities (SFs) listed on the NOI if 10 or less. If greater than 10, create one DP SF per receiving stream (create the DP that is furthest downstream) identified in the NOI, and add a comment to the PF on the total number of DPs. Enter or otherwise review and edit SF latitude and longitude. Snap DPs to the NHD using the NHD Locator Tool in eFACTS.
2. Review and edit the PF latitude and longitude, using the coordinates reported on the application or the central point of the MS4 area.
3. Select, if necessary, the Type of Discharge (“Stormwater”) and enter the Design Flow for each DP (“0”).
4. Link all applicable SFs to the authorization record.
5. Push the authorization from eFACTS to NMS. If the authorization cannot be pushed to NMS and if the problem(s) cannot be resolved by the application manager, the application

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manager will first work with administrative staff to resolve the problem(s) and then contact Central Office if administrative staff cannot resolve them.

- D. If none of the criteria in A.1 – A.7 are found to be deficient, the application manager will proceed to Step III H. No “completeness letter” will be issued.
- E. If the application is incomplete and the deficiencies are determined to be insignificant (i.e., an item that in the application manager’s judgment can be corrected within one business day), the application manager will contact the applicant (or the applicant’s authorized representative) by phone to explain the deficiency and offer the opportunity to submit the necessary materials informally by the end of the next business day to make the application complete. The application manager may or may not (at the application manager’s discretion) follow up the phone call with an email to the applicant and/or consultant.

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

A phone log will be kept by each application manager that details the name of the person contacted, the day and time of the conversation, and notes for all communications regarding the completeness and technical reviews. All phone logs will be retained with the application file during and following permit issuance, or otherwise a database or spreadsheet will be used and made accessible to allow others to check latest correspondence for a case if the application manager is out of the office.

In the event the application manager is unable to contact the applicant or consultant by phone within 5 business days, the application manager will proceed to Step III F (for new applications) or Step III G (for renewal applications). After the necessary materials have been received (receipt by email or fax is acceptable except when original signatures, plans or seals are needed), and assuming the application can then be considered complete, the application manager will then proceed to Step III H. If the submission does not correct the original insignificant deficiencies, the application manager will proceed to Step III F (for new applications) or Step III G (for renewal applications).

- F. For **new** applications, if the applicant fails to submit the requested information by the next business day following a phone call (or multiple attempts to contact the applicant or consultant by phone), or if the deficiencies are determined to be significant, the application manager will prepare a letter that denies the application, for the Program Manager’s signature. The template in NMS found at *Letters – Application Denial Letter* will be used. The eFACTS authorization record will be closed out by using the disposition code “Denied.” A subtask of “DENC” (Application Incomplete – Denied) will be entered into eFACTS against the Completeness Review Task, with start and end dates corresponding to the date of the letter. The application fee will not be returned. A new application fee will be required as part of a resubmission.
- G. For **renewal** applications, if the applicant fails to submit the requested information by the next business day following a phone call (or multiple attempts to contact the applicant or consultant by phone), or if the deficiencies are determined to be significant, the application manager will transmit a letter identifying the deficiencies. The template in NMS found at *Letters – Renewal Application Incomplete Letter* will be used. The application manager will enter a subtask of “SDN” (Send Deficiency Notice/Receive Response) into eFACTS with a start date corresponding to the date of the letter.

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

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date, the application manager will notify the regional Operations Section for possible enforcement.

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

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

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

- A. Enter a “DR” (Decision Review) subtask in eFACTS under the Technical Review task, with a start date corresponding to the date following the determination that the application is complete.
- B. For renewals, verify that an inspection has occurred in the past five years.

The application manager will review the Inspections file and/or run the NMS query at *Inspections & Inspectors – Inspections – Inspection History by Permit* to verify that an inspection has been done at the facility within the past five years. If not, the application manager will request that regional Operations staff schedule an inspection. The application manager does not, however, need to wait for the inspection to occur before issuing the permit.

- C. If the permittee is assigned a specific sediment or nutrient (i.e., Total Nitrogen or Total Phosphorus) Wasteload Allocation (WLA) in an EPA-approved TMDL, review the MS4 TMDL Strategy. The MS4 TMDL Strategy is the first step in the development of the MS4 TMDL Plan. (The second and final step is the MS4 TMDL Design Details, which is due one year after permit issuance). Below is a list of MS4 TMDL Strategy components and, where applicable, the content which is expected to be provided at the time of the permit application. The application manager should verify the reported information directly in the applicable TMDL(s).

1. The Title of TMDL or TMDL(s).
2. A list of the watershed name(s) and the eight-digit Hydrologic Unit Code (HUC) for the areas that discharge through the regulated MS4s to waterbodies with TMDLs.
3. A list of the pollutant(s) and WLAs assigned to each regulated small MS4 in each municipality covered by the permit.

Where a TMDL includes in a WLA pollutant loading from areas in a municipality that are not in the MS4 sewershed (i.e., do not drain to the MS4), the permittee may optionally delineate any part of the municipality which does not drain to the Municipal Separate Storm Sewer (see definition) to reduce the WLA responsibility of the MS4 permittee. Pollution controls installed outside the area of MS4 responsibility will not be credited to the MS4 TMDL obligation, and the percent load reductions from the TMDL will continue to be applied to the area which remains an MS4 responsibility.

To support the request the permittee must map components of their Municipal Separate Storm Sewer System along with all land area that drains into the components.

A calculation must be provided which establishes the part of the load reduction which remains an MS4 responsibility, and that same proportion is applied to the WLA.

A simple way to do this calculation is to identify the percentage of the area in the municipality which drains to the system relative to the permittees’ total land area. A simple calculation

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could also be based on relative population or percent impervious surface. The resulting percentage would be applied to the total required load reduction and the WLA. Modeling provides a more accurate estimation of pollutant loads generated per land use. If the waterbody remains impaired, the MS4 may be required to re-calculate and assume responsibility for a larger proportion of the TMDL-required load reduction in future NPDES renewal permits.

4. For each applicable TMDL, a list all of the municipalities subject to the TMDL within the area of the same eight-digit HUC.
5. For each applicable TMDL, a list of all the counties subject to the TMDL within the area of the same eight-digit HUC.
6. Allocated pollutant loadings established in each applicable TMDL.
7. Reductions in pollutant loads (pounds or percent) necessary to meet each applicable TMDL or WLA.
8. For each regulated small MS4 outfall that discharges to waters with TMDLs, and for each TMDL, all of the control measures and BMPs that will be implemented and reported to achieve consistency with each applicable TMDL or WLA. A brief analysis should be provided to explain and justify the control measures and BMPs that were selected for implementation.

The TMDL Strategy should include a narrative discussion of how BMPs will be selected for use in the Design Details. The discussion should describe in general the source of the TMDL pollutant(s) and an explanation of the types of BMPs that the MS4 believes to be appropriate to control the/those pollutant(s). The discussion of BMP types should consider relevant local factors such as land use, percent impervious, rate of development/redevelopment, geology, soils, topography and land ownership. Included should be a logical process in which opportunities for load reductions will be pursued, with estimates of the type and and general location of controls that will be implemented.

At a minimum each of the TMDL Control Measures from the permit application instructions should be considered. Describe readily-accomplished opportunities to reduce pollutant loads. If there are existing BMPs which could be readily modified to improve their pollution control capability (e.g., flood control BMPs), the MS4 TMDL Strategy should state that the Design Details will include an analysis of their potential for improved stormwater management. Can property owners be encouraged to install voluntary retrofits? Are there other opportunities such as planned construction projects (public and private)? Will sufficient controls be installed as a result of development, redevelopment and voluntary actions to satisfy the TMDL?

Street sweeping can be used as a BMP but claimed TMDL credits must be in accord with the effort applied. To achieve the load reductions specified in the Stormwater BMP manual, the use of high-efficiency equipment and frequent sweeping are required (i.e., not less than monthly, and documented).

The above should be supported with examples of specific control measures, complete with locational information, which will be analyzed further in the Design Details.

Optionally, the discussion may provide that the current stormwater ordinance, the subdivision and land development ordinance, and the zoning ordinance will be evaluated. The purpose is to identify changes which could be made, at local option, to eliminate inconsistencies between the ordinances that create obstacles for the implementation of “green” stormwater management. The outcome of that evaluation may be described in the Design Details.

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The MS4 TMDL Strategy should state that the Design Details will specifically describe BMPs installed since the date of the TMDL and all of the controls that will be implemented in the forthcoming permit term. Estimated net load reductions should be provided in the Design Details for each BMP. Controls to be implemented in subsequent permit terms may be described in the Design Details in a more general nature.

Load reductions from BMPs installed as a result of development/redevelopment will have a net reduction which can be credited to the TMDL obligation if they control more pollution than was caused by the development/redevelopment.

Application managers should review TMDL Strategies to confirm that the concepts in No. 8 have been addressed.

9. An analysis to show that implementation of the MS4 TMDL Plan, including the selected control measures and BMPs, will reduce the pollutant loads consistent with the applicable WLAs established in approved TMDLs. Permittees must include a timeline with milestones.

The MS4 TMDL Strategy should provide the expected load reductions from the planned types of BMPs to collectively show that the permittee will satisfy the WLA.

The Strategy should state that the Design Details will provide a timeline of milestone achievements which culminates in achievement of the WLA(s). The timeline may cover multiple permit terms.

Application managers should review TMDL Strategies to confirm that the analysis and timeline described in No. 9 are addressed.

D. If necessary, transmit a technical deficiency letter.

1. In the event, upon a detailed technical review of the application, the application manager determines that information beyond the scope of the Completeness Review is not available or otherwise there are technical problems with the application or proposals therein, the application manager will make a determination on whether the deficiency is significant or non-significant. In general, non-significant deficiencies are those that can be corrected quickly by the applicant (e.g., one day) so that there is only a minimal processing delay.
2. If the deficiencies are determined to be non-significant, the application manager will contact the applicant and/or the project consultant by phone and request a response by the close of the next business day. A phone log will be maintained by the application manager to record the results of all such conversations. A follow-up email may be transmitted at the application manager's discretion.
3. If a) the insignificant deficiencies are not corrected by the timeline requested, b) multiple phone calls to the applicant and consultant fail to establish communication, or c) the application manager determines that the deficiencies are significant, the application manager will prepare a Technical Deficiency (TD) Letter using the NMS template at *Letters – Technical Deficiency Letter*. The number of TD Letters will be limited to one in most circumstances, and will be issued prior to development of the draft permit. The letter will request a response within 15 business days or a longer period of time at the application manager's discretion (as long as it does not exceed the processing deadline in eFACTS). The application manager will enter a subtask of "SDN" (Send Deficiency Notice/Receive Response) into eFACTS with a start date corresponding to the date of the letter.

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4. If the applicant responds to the TD letter within 15 business days or the alternative schedule, the application manager will enter an end date for the “SDN” subtask in eFACTS corresponding to the date the submission was received, review the submission and, assuming it addresses the concerns raised in the TD letter, proceed with Step IV L. If the submission does not address the concerns in the TD letter, return to Step IV E.1.
  5. If the applicant fails to respond to the TD letter within 15 business days or the alternative schedule, or if the response fails to address the issues raised in the TD letter, the application manager will enter a subtask of “ELEV” (Elevated Review Process) and brief the Section Chief on the circumstances.
  6. If following the Elevated Review Process the decision is to deny the application, the application manager will prepare a pre-denial letter using the NMS template at *Letters – Pre-Denial Letter*. The application manager will prepare a PA Bulletin notice for the Special Notices section that indicates the tentative decision to deny the application. The PA Bulletin notice and pre-denial letter will contain the “statement of basis” (see 40 CFR § 124.7), i.e., the technical reason(s) for tentatively deciding to deny the application. The pre-denial letter and PA Bulletin notice will be mailed to the permittee via Certified Mail.
  7. Following the 30-day comment period after publication in the PA Bulletin, and assuming the applicant has not addressed the technical deficiencies, the application manager will deny the application by entering a “DENT” subtask (App Technically Deficient – Denied) into eFACTS, using start and end dates for the “DENT” subtask corresponding to the date of the decision, entering end dates for the “SDN” and “ELEV” subtasks, and preparing a letter that denies the application using the NMS template at *Letters – Application Denial Letter*. The authorization will be closed in eFACTS using the disposition code “Denied.”
- E. Prepare the fact sheet.
1. Application managers will run the template found at *Fact Sheets – Individual MS4s*. Any information that is missing on the first page will be manually entered into the fact sheet template and into the appropriate location in eFACTS. The application manager will manually enter a brief written summary of the review in the block on the first page.
  2. At this time, application managers will also run the NMS Query at *Violations – eFACTS – Open Violations for Client by Permit No.* to determine whether there are any unresolved violations associated with the client that will affect issuance of the permit (per CSL Section 609). If there are unresolved violation(s), they will be documented in the fact sheet. Review of the application will proceed, but the application manager will identify the violation(s) in the draft permit cover letter and indicate that the application may not be issued as a final permit if the violation(s) are not resolved.
- F. Prepare the draft permit documents and issue the draft permit.
- Mail a complete copy of the application to EPA Region 3. The application should be placed in the mail, if possible, a few days prior to the physical issuance of draft permits to coordinate arrival of the application with the receipt of the NMS email that notifies EPA of the electronic transfer of a draft permit through NMS. The application is the only hard copy information that will be mailed to EPA; all other relevant permit information will be transmitted electronically through NMS.
1. Application managers will run the template found at *Individual MS4s – MS4 Permit* to generate the permit document. If warranted, additional Part C conditions may be added at the discretion of the application manager.

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

If the NMS query identifies unresolved violations and the Operations Section is not developing an enforcement document to address the violations or a schedule to correct the violations is not contained in the draft permit, the application manager will select the optional paragraph named *Draft Permit Letter 3*, and manually enter information on the unresolved violations in the letter. This places applicants on notice that DEP may not be able to issue the final permit until the violations are resolved.

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

3. Application managers will run the template found at *PA Bulletin Notices – Draft Permits – MS4s* to serve as the public notice for the applicant to post near the entrance to their premises.
4. These documents, along with the fact sheet, will be printed and be provided to the Permits Chief. The application manager will sign the draft permit cover letter.
5. The Permits Chief will review the fact sheet to ensure general conformance with the regulations and the content of this SOP. The Permits Chief will sign the fact sheet if the Permits Chief is in agreement with the content, or otherwise return the package to the application manager for edits. After the fact sheet is signed, the Permits Chief will provide the permit package to administrative staff or the application manager for copying and data management.

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

6. Administrative staff or the application manager will complete the following:
  - a. A start date for the subtask “DP” will be entered in eFACTS for the Technical Review Task. The start date is the date of draft permit issuance.
  - b. All documents that will be issued as draft to the applicant will be set to a status of “Draft” and disposition of “Issued (Mailed)” in NMS. Documents that are not issued to the applicant will be set to a status of “Draft” and disposition of “Complete.”
7. The application manager will determine whether the applicant will receive a hard copy or electronic version of the draft permit package. In general, if there is an email address listed for the client on the GIF, the draft permit package should be sent electronically to the client. The consultant(s) for the project, if any, should receive a copy of the electronic transmission. Where applicable, DRBC, ECHD and ACHD may be copied on the email.
  - a. If a decision is made to transmit the draft permit package electronically to the applicant, all documents associated with the package should be transmitted electronically (i.e., one component of the package should not be emailed while others transmitted in hard copy).
  - b. If the package will be transmitted electronically, the application manager or administrative staff will open the draft permit cover letter, fact sheet, public notice for posting, and draft permit document in NMS, save these documents as PDF to a local drive, and then close the Word documents in NMS (select File – Save As – PDF, then Back to NMS). A

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“DRAFT” watermark should be applied to the electronic draft permit document, which should then be removed for the final permit.

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

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

“Dear \_\_\_\_\_,

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

Sincerely,

[Signature]”

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

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

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

- d. If the draft permit package is sent electronically, the application manager will set the email for “delivery receipt” (in Outlook select Options and check the box for “Request a Delivery Receipt”). If a delivery receipt email is not received within two business days, the application manager will communicate with the applicant (or consultant if applicant cannot be reached) by phone to confirm receipt of the draft permit package.
  - e. Draft documents (whether transmitted electronically or by hard copy) will be retained in NMS and a copy will be placed in the public file.
8. If it is determined that a hard copy of the draft permit package will be issued, the date of draft permit issuance will be stamped or manually entered onto the draft permit cover letter. The word “DRAFT” will be stamped on the draft permit document or a “DRAFT” watermark will be applied to the Word document.
  9. The notice that will be placed in the PA Bulletin will be prepared by the application manager or administrative staff and contain the elements required by 25 Pa. Code § 92a.82(b)(1)-(5).
  10. The Discretionary indicator box will be checked in NMS by the application manager anytime the discharge is to waters with an EPA-approved TMDL where the permittee is known to discharge the TMDL’s parameter(s) of concern at detectable concentrations. The name of the TMDL will be entered into the Reason field. This will cause the transfer of NMS

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documents to a website for EPA review. If the facility is known to receive oil and gas wastewaters, the Receives O&G WW indicator box will be checked in NMS, which will cause the transfer of NMS documents to a website for EPA review. If the facility is a Major or Significant Chesapeake Bay discharger, the transfer will occur automatically.

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

G. Review applicant, EPA and public comments.

1. The application manager will review comments received from the applicant (or the applicant's consultant) and decide whether the draft permit should or may be modified to address the comments. The application manager will consult with the Permits Chief, Central Office and regional counsel, as necessary. If the permit will be issued, the applicant's comments will be addressed in the final permit cover letter. In general, Central Office should be contacted for assistance where comments concerning the standard (Parts A and B) language of the permit are made unless the application manager has experience in addressing similar comments.
2. The application manager will review comments received from EPA. According to the Memorandum of Agreement (MOA) with EPA, EPA has 30 days to comment upon, object to or make recommendations on draft permits.

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

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

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

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

3. The application manager will review comments received from the public. If the Permits Chief or Program Manager determine that there is "significant public interest" in holding a hearing, the application manager will coordinate with the regional community relations coordinator to schedule a public hearing and comply with Chapter 92a.83 concerning public notice. The subtask "PH" will be used in eFACTS to document the public hearing and enter a start date corresponding to the date the need for a public hearing was determined. Following the hearing and receipt of the hearing transcript, the application manager will prepare a Comment-Response document using the template in NMS at *NPDES Supporting Documents – Comment-Response*, attach it to the final issuance or denial letter, and copy all

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commentators on the letter. An end date will be entered into the “PH” subtask in eFACTS corresponding to the final permit issuance date. All commentators and the applicant will receive a copy of the Comment-Response document.

If public comments are received and a hearing is not held, the application manager will review the comments and decide whether the draft permit should or may be modified to address the comments and still conform to this SOP. If the final permit is modified in response to public comments or is denied, the commentators will be copied on the final permit package or denial letter. Otherwise, there will be no formal communication with commentators unless the application manager, Permits Chief or Program Manager believe that separate correspondence should be issued to the commentators.

H. Decide whether to redraft the permit.

1. If the application manager decides to 1) make permit conditions more stringent or 2) make permit conditions less stringent where the application manager is aware there is public interest in the permit, a revised draft permit will be prepared and issued with a new public notice in the PA Bulletin. A revised fact sheet will be prepared to address the re-drafted permit. All previous documents in NMS will be retained to provide a historical record of the original draft documents.
2. If a draft permit is issued and then is not finalized for 6 months or more, and during this time standard permit language in NMS is modified in a way that would affect the permittee (the application manager will consult the Permits Chief for this determination), the application manager will prepare and issue a revised draft permit with a new public notice in the PA Bulletin. All previous documents in NMS will be retained to provide a historical record of the original draft documents.

I. Prepare final permit documents.

1. Application managers will enter an end date for the “DP” subtask 30 days following publication in the PA Bulletin.
2. If there continues to be unresolved violations associated with the facility that could, in the Permit Chief’s and/or Program Manager’s judgment, be addressed most effectively through issuance of the permit to require implementation of measures designed to achieve compliance, permit issuance may proceed despite the unresolved violations.
3. Following the review of comments, and assuming there are no unresolved violations or the violations will be addressed as described in paragraph J.2, the permit will not be re-drafted and coordination is not necessary or complete, the draft permit in NMS will be opened, anticipated effective and expiration dates on page 1 will be entered and other minor modifications will be made, and saved back to NMS as a new version. The application manager will then change the status of the document to “Final” and keep the disposition at “Pending.”
4. The application manager will generate the final permit cover letter using the NMS template at *Letters – Individual NPDES Final Permit Cover Letter*. The application manager will review the letter carefully to ensure that correct and appropriate facility names, abbreviations, salutations, and other information from eFACTS are used and make edits as needed. The application manager will change the status of the document to “Final” and keep the disposition at “Pending.”
5. The application manager will generate a fact sheet addendum using the NMS template at *Fact Sheets – Addendum* to document comments received following issuance of the draft

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

6. The application manager will enter the anticipated effective and expiration dates into NMS. Note that the effective date for individual permits must be the first day of the month following permit issuance. The effective date will not be set to a date in the past and, in general, will not be “post-dated” for the future.
7. All documents will be printed and assembled in the following order: 1) final permit cover letter and 2) final permit.

The applicant’s consultant, if applicable, will be copied on the final permit and cover letter. DRBC will be copied if the facility is in the Delaware River watershed. ACHD and ECHD will be copied if the facility is located in those counties. If the permit was modified in response to public comments, the appropriate commentator will be copied.

**J. Record scheduled permit requirements into NMS.**

1. The application manager or other staff at the discretion of the Program Manager will record scheduled permit requirements into NMS, using the Permit Schedules tab. The requirement and the due date for the requirement will be recorded. The following requirements will be entered and saved, at a minimum:
  - Annual or Progress Reports and submission due dates;
  - TMDL Plans and submission due dates, if applicable; and
  - Chesapeake Bay Pollutant Reduction Plans and submission due dates, if applicable.
2. Other scheduled permit requirements may be entered into NMS for schedule tracking purpose as deemed necessary (e.g., permit renewal application due dates, etc.).

**V. Final Review (Permits Chief)**

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

- A. Review the fact sheet addendum and final permit documents, and sign the fact sheet addendum if the Permits Chief is in agreement with the content, or otherwise return the package to the application manager for edits.
- B. Verify that the minimum required documents from Step IV are in NMS as Final – Pending documents.
- C. Verify that any applicable permit coordination has been completed.

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

- D. If there are unresolved violations associated with the facility, the Permits Chief will discuss the matter with regional counsel and the Program Manager to decide whether the permit will be

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issued, will be denied, or whether issuance should be held for the development of an enforcement document. If issuance of coverage will be delayed for this reason, a “NC” (Non-Compliance Prohibits Final Decision) subtask will be entered under the Technical Review task.

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

**VI. Final Decision (Program Manager)**

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

- A. Review the fact sheet addendum and final permit documents.
- B. Sign the final permit cover letter, the first page of the permit document and the fact sheet addendum if the Program Manager is in agreement with the content, or otherwise return the package to the Permits Chief for edits.
- C. Submit the final, signed permit package to administrative staff or the application manager (at regions’ discretion).

**VII. Final Permit Processing (Administrative Staff or Application Manager)**

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

- A. Open the permit document in NMS, enter the issuance date on Page 1, apply a signature indicator (“/s/”) on Page 1, and ensure that the correct effective and expiration dates are on Page 1.
- B. Change the Disposition of the final permit cover letter, final permit and all other documents that will be part of the final permit package issued to the applicant from “Pending” to “Issued (Mailed).” Change the Disposition of documents that are not part of the final permit package from “Pending” to “Complete.” Ensure there are no documents in the list with a Disposition of “Pending”.
- C. Enter an end date for the “DR” subtask in eFACTS corresponding to the issuance date.
- D. Issue the authorization in eFACTS.
- E. Make copies, and mail the copies to the applicant, consultant, ECHD, ACHD and DRBC, as applicable, with a copy to Central Office Division of Operations, Monitoring and Data Systems and other appropriate staff. The final permit cover letter will be sent via Certified Mail to the applicant only.
- F. Generate and save the PA Bulletin listing for the final permit issuance using the appropriate template in NMS.
- G. Transmit the case files to the regional file room.

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**Version History**

<b>Date</b>	<b>Version</b>	<b>Revision Reason</b>
12/1/2014	1.6	Added clarification to Section IV C concerning TMDL Strategies. Removed guidance in Section IV G.3 concerning the need for 5 requests for a public hearing.
10/11/2013	1.5	Added Section IV J to indicate that MS4 compliance schedules will be recorded using NMS.
8/15/2013	1.4	Updated Section IV F relating to issuance of draft permits to specify that fact sheets prepared to support draft permits will be sent to applicants with other draft permit documents. In addition, procedures for electronic transmission of draft permit documents have been introduced.
7/16/2013	1.3	Updated Section II to indicate that the Permits Chief will notify the regional Late Application Coordinator if a permit renewal application has been submitted late. Updated Section III to indicate that incompleteness letters will be sent to permittees if a renewal application is significantly deficient.
3/7/2013	1.2	Added a reference to the Program Clarification Memo on Permit Coordination in the introduction, and removed the requirement for Permits Chiefs to verify coordination requirements in Section II before the completeness review. Revised the SOP to call for the use of a technical deficiency letter for renewal applications only, in lieu of denial, when applications are considered significantly incomplete.
12/28/2012	1.1	Clarified in Section I A.2 that if a fee is missing, it should be treated as an underpayment in accordance with the Management Directive.
11/9/2012	1.0	Original