

Mining Program Standard Operating Procedures for Permit Application Review

Disclaimer: The process and procedures outlined in this Standard Operating Procedure (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.

Background

The Department has established a permit decision guarantee (PDG) program to provide some certainty in the time required to obtain permits. For the mining program, the following applications are subject to the PDG.

Application	Application Form
Small Noncoal	5600-PM-MR0316
Bluestone	5600-PM-MR0344
Noncoal Blast Plan	5600-PM-BMP0315-16
Coal Blast Plan	5600-PM-BMP0311-16
Blasting Activity Permit	5600-PM-MR0021 (or on-line)
GP103	5600-PM-MR0004
GP104	5600-PM-MR0388
GP105	5600-PM-MR0027
GP12	2700-PM-AQ0212
NPDES	5600-PM-BMP0032
Bituminous Prep Plant/Underground/Refuse Disposal	5600-PM-MR0324
Noncoal Underground Mine	5600-PM-BMP0315
Noncoal Bonding Increment	5600-FM-BMP0304
Bituminous Surface Mine	5600-PM-BMP0311
Anthracite Surface	5600-PM-BMP0343
Large Noncoal Mine	5600-PM-BMP0315

Program Specific Practices

In order for the Department to be able to meet the deadlines of the PDG, the following new applications which are inherently complex should be preceded by a pre-application. However, failure to submit a pre-application does not automatically void the PDG.

NPDES

Bituminous Prep Plant/Underground/Refuse Disposal

Noncoal Underground Mine

November 13, 2012

Bituminous Surface Mine
Anthracite Surface Mine
Large Noncoal Mine

Major revisions (i.e., those revisions which require newspaper public notice) for the applications listed above may require pre-applications in order for the Department to meet the deadlines of the PDG. Applicants should contact the DMO to discuss their plans to determine the necessity for the pre-application. As an example, a major revision that adds area to the permit and requires a new PNDI needs a pre-application. An example of an application that would not require a pre-application is a major revision that is just adding blasting to the permit.

In order to assure prompt processing time, deficiencies noted in an initial correction letter will typically have to be addressed within 21 business days.

For permits that require bond, failure to meet the bond request deadline puts the application at risk for denial. The option of providing a minimum bond is available for applicants who do not plan to activate the permit soon. The Department cannot indefinitely hold permits waiting for bond submittal.

Applicants are encouraged to discuss their plans with the DMO in order to facilitate the permit review process. This practice has proven effective in the past and it is not intended for the PDG process to preclude this interaction.

Permit Review Timelines

The following table includes the acceptance deadlines, initial correction letter due dates and the total review period for the applications listed in the PDG guidance Appendix A. The times are expressed as the number of business days. These deadlines are applicable upon submission of the application.

Application	Completeness/ Acceptance Deadline	Correction Letter to be sent	New	Major	Minor	Transfer
Small Noncoal	10	45	120			
Bluestone	10	45	130	120	120	
Blast Plan	10	30	60		60	
Blasting Activity Permit	10	15	20			
GP104-for Coal	10	45	120	120	120	
GP104 for Noncoal	10	45	120		30	
GP104-Exploration	10	15	30			
GP105	10	45	130			
GP12	10	30	70		70	
Coal NPDES	10	45	130		130	
NPDES-noncoal	10	45			120	

Bituminous Prep Plant	45	175	350	130	90	90
Noncoal Underground Mine	10	60	160		120	
Bituminous Underground Mine	45	175	380	380	200	100
Bituminous Coal Refuse Disposal	45	175	550	300	130	90
Noncoal Bonding Increment	10	30	70		70	
Coal Surface Mine	10	45	130	130	130	130
Large Noncoal Surface Mine (GW)	10	60	150	150	130	
Large Noncoal Surface Mine	10	45	130	130	130	
GP103	10	45	120	120	120	

Note: The NPDES permits listed above are coordinated permits that coincide with a mining permit. For these the review time frame will be the greater of the two time frames.

Pre-applications

Forms are under development for the pre-applications for large noncoal applications and coal surface mine applications. These forms will list the necessary modules to be submitted to assure complete review of the proposed activities. The guidance document, Coal Surface Mining Activity Permit Pre-Application Review, will be revised to address emerging issues, particularly relating to protection of threatened or endangered species and wetland delineation. The guidance describes the modules included in a coal surface mine pre-application. Additional information is needed from modules 10 and 19 to address the emerging issues. Pre-applications should include the anti-degradation supplement when it is applicable.

The pre-application process for the applications processed by the California DMO is less formal. The applicant should contact the California DMO to discuss its plans to establish what information is appropriate to be sent for a pre-application for Bituminous Prep Plant/Underground/Refuse Disposal sites.

For bituminous coal refuse disposal facilities, the site selection process should be completed prior to the submittal of the pre-application.

Pre-application Process Flow

Upon receipt of a pre-application, it is date stamped and promptly routed to the permit chief. The permit chief promptly assigns the pre-application to a lead reviewer and to a secondary reviewer. The pre-application is promptly routed to the permits clerk to enter the pre-application into eFACTS, prepare the assignment memos, send one copy of the pre-application to the MCI, and place the office copy in a pre-application file folder with a review checklist.

Within 15 business days (30 days for bituminous underground, refuse disposal and prep plants), the lead reviewer will conduct a preliminary review of the pre-application and send a letter to the applicant scheduling a pre-application field meeting. The following are copied on the letter: the mining manager, permits chief, all DEP staff assigned to the pre-application, the MCI and, the consultant that prepared

November 13, 2012

the application. The lead reviewer will contact the applicant by phone prior to setting the meeting date to confirm availability. The pre-application field meeting will be held within 60 business days of receipt of the pre-application. Appropriate representatives of the PA Fish and Boat Commission, the PA Game Commission, the US Army Corps of Engineers, and other agencies, as appropriate, will be notified of the date and location of the meeting via memo. If, during the preliminary review, the pre-application is found to have significant missing information that would jeopardize the ability of the Department to complete a meaningful review, the pre-application may be returned as incomplete with a description of the deficiencies. Examples of significant missing information include overburden analysis, water supply replacement demonstrations, or hydrologic studies, where applicable.

Prior to the field meeting, all Department staff (typically the hydrogeologist, engineer, and MCI) assigned to the application will conduct a field review of the site. Mapping will be field-checked for completeness and accuracy; with specific emphasis placed on the identification of streams and wetlands, dwellings and other buildings, and utilities. Department staff will check E&S control locations for construction viability, and verify that all appropriate water monitoring locations are included in the monitoring plan. Please note that during the winter months, adverse weather conditions may prevent the timely completion of the field review. When this occurs, the Department will establish a time frame for the field review as soon as possible.

Based on the field review and office review, the reviewers will develop a letter identifying the major shortcomings in the pre-application. Each point in the letter will include a citation of the regulation or statute that supports the comment. The pre-application review letter will be provided to the applicant and consultant prior to the pre-application conference. If the Department concludes there are circumstances that make obtaining a permit for a site unlikely, then that will be clearly stated in the pre-application letter.

In the past, pre-application field conferences were generally held to identify "big-ticket" items to be addressed in a formal permit submission. That approach led to lengthy review letters often being written on permit applications, despite the pre-application review. With the Department's current emphasis on the submission of complete formal applications, the pre-application review requires greater detail, while still identifying major issues. The pre-application letter should reflect this need for detail and identify the deficiencies identified in the pre-application.

At the pre-application field meeting, each item in the letter needs to be discussed. Each Department reviewer who contributed to the comments in the letter should attend the meeting to discuss the items raised by that reviewer. The intent of this discussion is to make sure that the Department's comments are understood and to discuss possible solutions. If there are items that need to be addressed in the field, those areas will be visited and discussed during the field meeting.

For bituminous underground, refuse disposal and prep plants, a response to the initial pre-application correction letter needs to be received by the Department within 20 business days. A second pre-application review letter is to be sent by the Department within 30 business days. This letter will include a schedule for a pre-application meeting.

For all other applications, the pre-application letter is not a review letter that requires a response until the full application is submitted for review. The pre-application process is completed at the close of the pre-application meeting. The Department will provide a field meeting summary letter outlining the

November 13, 2012

issues discussed, potential resolutions agreed to, and any remaining significant issues. The pre-application review is valid for one year, due to the potential for changes in water quality and site conditions such as new home or utility construction, or changes in regulatory requirements, science or technology. However, this one-year limit may be extended, with concurrence of the DMO, based on site conditions and the applicant's progress in the preparation of an application.

Acceptance/Completeness Review

For applications for which there has been a pre-application, the items identified in the pre-application review letter need to have been addressed in order for the application to be complete. For the on-line blasting activity permit application, the acceptance/completeness review has been automated through edit checks in the web forms. For these applications the acceptance review is completed in real time as the application is being prepared.

Acceptance/Completeness Process Flow

Upon receipt the application is date stamped with date of receipt. The application is then promptly routed to the permit chief. The permit chief promptly assigns the application to a lead reviewer for completeness and a secondary reviewer(s) and passes it on to the permits clerk. In the case where a pre-application has been done, every effort will be made to assign the permit application to the reviewers of the pre-application.

The permits clerk processes the fee and promptly passes one copy of the application to the lead reviewer and one copy to the secondary reviewer(s) with an assignment memo with a due date (due 10 business days from date of receipt) and a completeness review check list. The permits clerk also creates the initial eFACTS records for the site and assigns a number to the application.

For major revisions of or new bituminous underground mines, coal refuse disposal sites and prep plants, due to the volume of information submitted and the complexity, the 10 day acceptance deadline does not apply to these applications. The Department will conduct the completeness review as quickly as possible, but not later than within 45 business days of receipt of these applications. The clerical staff and permit chief should give top priority to making this assignment to avoid losing review days.

For the other classes of applications, the lead reviewer is to conduct the completeness review within 10 business days and fill out the completeness review checklist. The secondary reviewer will concurrently conduct the completeness review of the modules for which they are responsible.

In order to qualify for the PDG, an application must not result in a deficiency letter. To achieve this, all information required in the application needs to be submitted to make it complete. This includes all water samples and all administrative documents (addressing properties, utilities, dwellings and roads). At least 6 months of water quality data is required, including samples representing the low flow period. For Subchapter F and G applications, one year of data is needed to establish the baseline. In cases where there has been a pre-application, completeness includes a point-by-point response to the pre-application comment letter.

November 13, 2012

The lead reviewer will complete the completeness review checklist and inform the permit chief of findings of completeness review and discuss any errors or omissions in the application. If the application is to be returned as incomplete, the permit chief will notify the District Mining Manager and Bureau Director of reasons for return. If the application is being returned, the lead reviewer or permit chief will notify the applicant and consultant of the reasons why the application is being returned via phone.

If the application is being returned, a letter will be prepared and sent that identifies the errors, omissions and other deficiencies in the application. The letter may identify any other deficiencies noted, but the ones that resulted in the return should be highlighted as such. Each point in the letter will include a citation of the regulation or statute that supports the comment.

If the application is accepted it is passed back to the permits clerk who: updates the eFACTS records, prepares and sends the standard notifications and, prepares the file folders for the application. If complete, an acceptance letter explaining the technical review process, outlining the PDG timeline and identifying any other permits required will be sent to the Applicant.

Technical Review

The technical review of applications is guided by the application forms and instructions. Additional review resources are listed below:

Application	Application Form	Checklist
Small Noncoal	5600-PM-MR0316	
Bluestone	5600-PM-MR0344	
Noncoal Blast Plan	5600-PM-BMP0315-16	
Coal Blast Plan	5600-PM-BMP0311-16	
Blasting Activity Permit	5600-PM-MR0021	
GP103	5600-PM-MR0004	
GP104	5600-PM-MR0388	
GP105	5600-PM-MR0027	
GP12	2700-PM-AQ0212	
NPDES	5600-PM-BMP0032	
Bituminous Prep Plant	5600-PM-MR0324	
Noncoal Underground Mine	5600-PM-BMP0315	
Bituminous Underground Mine	5600-PM-MR0324	
Bituminous Coal Refuse Disposal	5600-PM-MR0324	
Noncoal Bonding Increment	5600-FM-BMP0304	
Bituminous Surface Mine	5600-PM-BMP0311	5600-FM-MR0136
Anthracite Surface	5600-PM-BMP0343	5600-FM-MR0138
Large Noncoal Mine	5600-PM-BMP0315	5600-FM-MR0137

Technical Review Process Flow

Upon acceptance of an application, the permits clerk will process the application in accordance with the permit processing desk manual. This includes giving the application a permit number, sending out the standard notifications, preparing file folders, forwarding a copy of the application to the MCI, forwarding the application to assigned staff, and making the necessary eFACTS tracking entries. This step is to be conducted within the time frame identified in the Department's Policy for Implementing the PDG.

Each application is assigned to a lead reviewer and to secondary reviewer(s). The reviewers are responsible for the review of their respective portions of the application. The lead reviewer will coordinate with secondary reviewer(s) to ensure that comments are consistent and not repetitive.

If there has been a recent pre-application field review and meeting, there will generally not be a need for the technical staff to conduct a second field review of the site. Exceptions arise in cases where the pre-application resulted in significant corrections to site mapping that need to be verified.

If deficiencies are found during technical review of the application, the technical staff will mail a deficiency letter within 45 business days of acceptance of the application for most applications. For bituminous underground, refuse disposal and prep plants, the letter will be sent within 175 days of the acceptance date. In order to develop the letter, the secondary reviewer(s) will provide comments to the lead reviewer at least 10 business days before the deadline and the lead reviewer will have a draft letter typed and on the permit chief's desk at least 5 business days before the deadline. Other deadlines are indicated in the Permit Review Timeline table above. Minor deficiencies (i.e., items that can be provided within a few days) can be addressed informally.

Each point in the letter must include a citation of the regulation or statute that supports the comment. The letter will include a deadline for response, typically within 21 days unless circumstances warrant another time frame. The letter should be comprehensive, but it needs to be recognized that unanticipated substantial issues may arise at any time during the review process. The Department must issue a permit that meets all of the regulatory requirements. The permit chief will review the letter for clarity, and to ensure each item is properly cited. The letter will be returned to the lead reviewer either as acceptable or as needing to be revised. Once the final letter is prepared and signed, the lead reviewer will scan and email the letter to the applicant and consultant in addition to placing it in the mail, with a copy to the consultant. The letter will acknowledge that the PDG is no longer applicable.

Most surface mine permits also require an NPDES application. Where this is the case, both the mining permit and the NPDES permit will be issued together. The applications will be processed together, with a single deficiency letter issued for both, if needed. The Department will provide the applicant with a copy of the draft NPDES permit and publish a notice of the proposed effluent limits in the *Pennsylvania Bulletin*. The notice does not appear in the *Bulletin* until approximately 2 weeks after the DMO forwards it. Given these considerations, the draft NPDES permit should appear in the *Bulletin* within 75 business days of acceptance of an application.

If a deficiency letter is issued, which is typically the case, then the applicant needs to satisfy the identified deficiencies within the number of days specified in the letter (usually 21 business days).

November 13, 2012

Upon receipt of the applicant's response to the deficiency letter, the permit revisions are date stamped with the date of receipt. The Department reviewer(s) have 20 business days to review the revisions. If the revisions are acceptable, a bond request letter will be sent and the permit prepared for issuance. The bond needs to be submitted within 120 business days or the application may be returned as incomplete.

If the revisions are not acceptable, the Department is to follow the elevated review process found in the Policy for Implementing PDG.

If the Department's elevated review process determines that the application should be kept in review, the applicant is given an additional 10 business days to provide revisions, and the technical staff will review those revisions within 20 business days. If the revisions are acceptable, a bond request letter is issued. If the second revisions are not acceptable, the application may be denied in accordance with the Policy for Implementing PDG.

Public Notice/Public Meeting

If a public meeting is requested then the Department will not send a review letter until after the meeting occurs. Public meetings are typically requested late in the initial review process, and because of the need to run public notices of the meeting, they normally will result in the Department being unable to meet its targeted time frames on an application. The Department will schedule public meetings as promptly as possible and issue a review letter on the application within 20 business days of the meeting in order to meet the PDG time frames to the extent possible.

Final Action

For applications that require bond, the bond needs to be submitted within 120 business days of the bond request. The bond request process is a noted processing delay in the permit decision guarantee guidance.

The Department's regulations require notice of the permit decision within 60 (calendar) days of a public hearing/informal conference, see 77.127(a)(2) and 86.39(a)(2)(i). In cases where a review letter is required, informing all meeting participants that revisions to the application will be required by the Department fulfills this notice; the participants will then be further notified when a final action is taken on the application.

Tracking

Applications are tracked in the application tracking module of eFACTS. Pre-applications are tracked as site authorizations. All other applications are tracked as facility authorizations.

The new application is created as the master authorization. Subsequent applications (e.g. blast plans and modifications) are linked to this master authorization.

References

The following guidance documents are related to the processing of permit applications:

TGD Number	Title
563-2112-211	Completeness Review for Acceptance of Coal Mining Activity Permit Applications
563-2112-214	Coal Surface Mining Activity Permit Pre-Application Review
563-2112-215	Review of Accepted Coal Mining Activity Permit Applications
563-2000-223	REVIEW PROCESS FOR APPROVAL OF A BITUMINOUS COAL BLAST PLAN
562-2100-001	Blasting Activity Permits and Permits-By-Rule
563-2112-219	Cumulative Hydrologic Impact Assessments (CHIAs)
563-0300-101	Engineering Manual for Mining Operations
563-2000-203	Noncoal Underground Mine Permit Applications
563-2100-216	Permit Renewals
563-2112-218	Permits Transfers
563-2112-611	Permitting Pre-existing Pollutational Discharges under Subchapter F of 25 Pa. Code Chapter 87, Subchapter G of 25 Pa. Code Chapter 88
563-2112-205	Review Guide and Written Findings

The document, Permitting Surface Facilities for Underground Mining Operations (October 2011), prepared by Michael Baker Jr. Inc. and Wallace and Pancher, Inc. includes detailed instructions about completing the forms for bituminous underground, coal refuse disposal and preparation plant applications.