



Standard Operating Procedure (SOP)¹ for Chapter 105 Dam Safety Program Review of Chapter 105 Environmental Assessment Review for Dam Related Activities November 2, 2012

This SOP describes the procedures and work flows associated with the administrative and technical review of applications for new Chapter 105 Environmental Assessment Approval for Dam Related Activities (EA Approval), from the request for a pre-application meeting by the applicant and resulting receipt of the application package to final acknowledgement by Dam Safety staff. The SOP is organized sequentially by activities that will generally be completed. The functional roles that are responsible for the activity are identified with the name of the activity. This SOP is intended to comply with the Policy for Implementing the Department of Environmental Protection Permit Review Process and Permit Decision Guarantee (Doc. ID 400-2100-001). The Permit Decision Guarantee Timeframe for Chapter 105 Environmental Assessment Approval for Dam Related Activities is 157 days. Application processing staff will strive to complete the review of permit applications in as few days as possible and in accordance with the permit review hierarchy as established in the Permit Review Process and Permit Decision Guarantee. Application processing staff will also strive to complete the review of permit applications which do not meet the requirements of the Permit Decision Guarantee in the same timeframes.

I. Pre-Application Meeting (Applicant)

When an Applicant proposes a dam related activity that requires an Environmental Assessment, the Applicant will:

- A. Contact the Department to request a pre-application meeting. The Applicant will be provided with the names of the appropriate agencies to include in the pre-application meeting. Possible agencies that may be included to attend the meeting are the DEP Division of Dam Safety, appropriate DEP Regional Office, U.S. Army Corps of Engineers, Pennsylvania Fish and Boat Commission and appropriate County Conservation District. Additionally, the Applicant's consultant should attend the meeting. The Lead Reviewer and any other appropriate staff will represent the Division of Dam Safety at the meeting.
- B. Coordinate a date, time and location to hold the pre-application meeting once the appropriate attendees for the meeting are provided by the Department. At the meeting, the Applicant will explain the proposed project and all alternatives that were considered. Each agency will discuss its role in the permitting process, indicate any potential issues with the proposed project and offer any appropriate suggestions regarding the proposal. The Department will explain each item of the Environmental Assessment Information Completeness Checklist (see Attachment A) and indicate any items that are not required based on the Applicant's specific project proposal.
- C. Work with their consultant to prepare a complete Environmental Assessment Application Package and submit it to the Department.

¹ **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.

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II. Application Receipt (Division Secretary)

When the Environment Assessment Application Package is received, the Division Secretary will:

- A. Date-stamp the cover letter of the Environmental Assessment Application Package; and
- B. Forward the entire Application Package to the Section Chief for Application Assignment.

III. Application Assignment (Section Chief)

The Section Chief will, within 5 business days:

- A. Assign an Environmental Assessment number;
- B. Enter the Environmental Assessment number and receipt date on the Application Form;
- C. Forward one copy of the Application Package to the Administrative Assistant for IV. Preliminary Data Management and continue concurrently with Steps D through H below;
- D. Create the basic Environmental Assessment (EA) in the Correspondence Tracking component of the Dam Database and link it to the Dam Inventory;
- E. Assign the application to the appropriate Lead Reviewer and enter the individual's name in the Application Record in Correspondence Tracking;
- F. Type and print forms associated with the Environmental Assessment Application (Application Deficiency List, Environmental Assessment Checklist, PA Bulletin Description Data Sheet);
- G. Create a yellow Application file folder;
- H. Forward the Application Package to the Lead Reviewer for Completeness Review.

IV. Preliminary Data Management (Administrative Assistant)

For decision-making with respect to data management activities, the reader is referred to the eFACTS Program-Specific Guidance for new Environmental Assessments for detailed guidance.

The Administrative Assistant will, within the 5 business day Application Assignment time period:

- A. Create the EA Approval record in eFACTS, using the appropriate authorization type and associate the proper client and site to the project/EA Approval ;
- B. Enter the proper dates for application received, accepted, and subtasks in eFACTS;
- C. Update the primary facility (PF) Mailing and Location Addresses in accordance with the application, as necessary;
- D. Update the PF Type to "DAML", as necessary;
- E. Update the SIC or NAICS code for the PF, as necessary, and identify one SIC and/or NAICS code as the "Primary" code (in general, use the SIC Code 0782);
- F. Ensure the Master EA Approval linked to the EA Approval has been pushed to NMS already (otherwise, push the Master EA Approval to NMS);

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- G. Ensure the Client ID and Other ID of the PF is identical to those for the EA Approval, otherwise update the PF;
- H. Create the APSCS ID Number Sheet and attach it to the Application Package file and the APSCS Binder;
- I. Forward the Application Package to through the Section Chief to the Lead Reviewer.

V. Completeness Review (Lead Reviewer)

Once Steps III and IV are completed by the Section Chief and Administrative Assistant, all application materials will be forwarded to the Lead Reviewer. The Completeness Review will be completed within a total of 10 business days to include both V. Completeness Review and VI. Completeness Review Finalization and Coordination. The Lead Reviewer will, within 5 business days:

- 1. Check for outstanding compliance issues or violations with the applicant to determine if there will be a possible processing delay associated with the issues or violations;
- 2. Create the Standard Task in eFACTS and enter the start date for COMP;
- 3. Create the appropriate Sub Tasks in eFACTS and enter start dates;
- 4. Perform the Completeness Review; (including GIF and signatures)
- 5. Complete the PA Bulletin Description Data Sheet; and
- 6. Forward the application to the Corps if it falls under Category 3 reporting status;

VI. Completeness Review Finalization and Coordination (Lead Reviewer)

Once Step V is completed, the Lead Reviewer will complete Steps A through B and Step C or D as appropriate, within 5 business days:

- A. Finalize the Application Deficiency List;
- B. Prepare a draft Deficiency Letter or Complete Letter, as appropriate, and proceed with Step C or D accordingly;
- C. **Incomplete Application** - If the application is incomplete and the deficiencies are determined to be non-significant (i.e., an item that in the Lead Reviewer's judgment can be corrected before the 10-day Completeness Review Task has expired), the Lead Reviewer will attempt to contact the applicant by phone to explain the deficiency and offer the opportunity to submit the necessary materials informally before the Completeness Review deadline expires to make the application complete. The Lead Reviewer may or may not (at the Lead Reviewer's discretion) follow up the phone call with an e-mail to the applicant and/or consultant. A phone log will be kept by each Lead Reviewer 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. It is recommended that all logs be retained with the application file until the permit is issued, or otherwise a database or spreadsheet be used and made accessible to others to allow others to check the latest correspondence in a case when the Lead Reviewer is out of the office.
 - 1. If the applicant originally failed to submit the required application information, if the submittal contents are not sufficiently adequate, if the non-significant deficiencies were

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not addressed with the 10-day completeness review time frame, or if the Lead Reviewer is unable to contact the applicant by phone before the 10-day Completeness Review Task has expired, the Lead Reviewer will enter the **SDN** - Send Deficiency Notice/Receive Response Sub Task under the Completeness Standard Task and will transmit a deficiency letter to the applicant after discussing the deficient items with the Section Chief. In accordance with 25 Pa. Code § 105.13a(b), the applicant shall have 60 calendar days from the date of the deficiency letter to complete the application and address any completeness deficiencies. The applicant will be informed that the application is no longer eligible for the Permit Decision Guarantee in the deficiency letter.

2. If the applicant fails to respond within 60 calendar days from the date of the deficiency letter or the information provided is not sufficient to address the deficiencies, the Lead Reviewer will offer a meeting to the applicant and consultant to discuss the outstanding deficiencies and negotiate a final extension, if considered appropriate by the Department, to submit all necessary information to complete the application. The offer to meet will be documented in the application file. If the applicant fails to accept the meeting offer or fails to submit the necessary information before the final extension deadline, the Lead Reviewer will discuss the situation with the Section Chief, Division Chief and Bureau Director for concurrence that the application should be withdrawn. Once concurrence for application withdrawal has been confirmed with the Section Chief, Division Chief and Bureau Director, the Lead Reviewer will draft a letter for Division Chief signature notifying the applicant in writing that the application is incomplete and considered withdrawn in accordance with 25 Pa. Code § 105.13a(b). The Lead Reviewer will enter the end date for the **AC** – Application Completeness Review subtask under Completeness Standard Task, enter the subtask of **DENC** - Application Incomplete – Denied in the Completeness Review Task, with start and end dates corresponding to the date of the letter and close out the Completeness Task. The Lead Reviewer will then close the EA Approval in eFACTS using a disposition of **WITH** - Withdrawn. If the applicant chooses to amend the application and resubmit the package, following program requirements and procedures, the Department will treat the resubmitted package as a new application.
 3. E-mail the Section Chief and Administrative Assistant to inform them the Application Package has been withdrawn;
 4. Enter end dates for the appropriate Sub Tasks in eFACTS;
 5. Update the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database and change the record status to final.
- D. **Complete Application** – If the application is initially complete, the Lead Reviewer will prepare a Complete Letter explaining the technical review process and provide information pertaining to the Permit Decision Guarantee timeframes and proceed to Step 3 below. The processing time for the application does not begin until the application is deemed complete by the Lead Reviewer.
1. If the application is initially incomplete and there are only insignificant deficiencies that the applicant submits (receipt by email or fax is acceptable except when original signatures, plans or seals are needed) within the 10-day completeness review time frame, and the requested information meets the requirements for a complete application, the Lead Reviewer will prepare a Complete Letter explaining the technical review process and provide information pertaining to the Permit Decision Guarantee timeframes and proceed to Step 3 below. The processing time for the application does not begin until the application is deemed complete by the Lead Reviewer.

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2. If the application is initially incomplete and there are deficiencies that the applicant submits (receipt by email or fax is acceptable except when original signatures, plans or seals are needed) between the end of the 10-day completeness review time frame and within the 60 calendar day deadline or final extension deadline as discussed above, and the requested information meets the requirements for a complete application, the Lead Reviewer will prepare a Now Complete Letter explaining the technical review process and reminding the applicant that the application has been removed from the Permit Decision Guarantee. The Lead Reviewer will then proceed to Step 3 below.
3. If the application is complete; prepare, forward to the Division Secretary for processing, and when returned sign and send the appropriate Request for Comment Memos to the DEP Regional Office, Pennsylvania Fish and Boat Commission, DEP Water Supply Program and River Basin Commission for review and provision of resulting comments back to the Lead Reviewer;
4. E-mail the Section Chief and Administrative Assistant to inform them the Application Package is complete and ready to be published in the PA Bulletin with the attached PA Bulletin Description Data Sheet; and
5. Enter end dates for the appropriate Sub Tasks in eFACTS;
6. Update the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database.

VII. Pending Application PA Bulletin Publication (Administrative Assistant)

The Administrative Assistant will:

- A. Forward the PA Bulletin Description for publishing it in the PA Bulletin; and
- B. E-mail the Lead Reviewer and Section Chief once the PA Bulletin Description has been forwarded and include the requested publish date.

VIII. Technical Review (Lead Reviewer)

Once Step VI is completed and the application is complete, the Lead Reviewer will perform the technical review within 75 business days.

A. Technical Review (Lead Reviewer)

The Lead Reviewer will, within 75 business days:

1. Create the Standard Task in eFACTS and enter the start date for TECH;
2. Create the appropriate Sub Tasks in eFACTS and enter start dates;
3. Perform the Technical Review;
4. Enter end dates for the appropriate Sub Tasks in eFACTS; and
5. Enter end dates in the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database.

IX. Technical Review Coordination (Lead Reviewer)

Once Step VIII is completed, the Lead Reviewer will, within 25 business days:

- A. Coordinate all components of the Technical Review;
- B. If no technical comments are generated by the Lead Reviewer or commenting agencies, proceed to XVI. Application Finalization.
- C. In the event, upon a detailed technical review of the application, the Lead Reviewer 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 Lead Reviewer 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.
- D. If the deficiencies are determined to be non-significant, the Lead Reviewer will attempt to 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 Lead Reviewer in the application file to record the results of all such conversations. A follow-up e-mail may be transmitted at the Lead Reviewer's discretion.
- E. If a) the non-significant deficiencies are not corrected by the timeline requested, b) the phone call to the applicant and consultant fails to establish communication, or c) the Lead Reviewer determines that the deficiencies are significant, the Lead Reviewer will prepare a Technical Deficiency (TD) Letter. The letter will request a response within 60 calendar days in accordance with 25 Pa. Code § 105.13a(b). If the application remained eligible through the completeness and technical reviews, the letter will inform the applicant that the Permit Decision Guarantee is no longer applicable and at the discretion of the Lead Reviewer, offer an opportunity to the applicant to meet and discuss the deficiencies.
- F. Forward the Technical Deficiency Letter and application materials necessary for review to the Section Chief.

X. Technical Review Section Chief Review (Section Chief)

The Section Chief will, within 10 business days:

- A. Review the Technical Deficiency Letter and discuss any necessary adjustments or revisions to the Technical Deficiency Letter with the Lead Reviewer for revision; and
- B. Forward the Technical Deficiency Letter and application materials necessary for review to the Division Chief.

XI. Technical Review Division Chief Review (Division Chief)

The Division Chief will, within 10 business days:

- A. Review the Technical Deficiency Letter and discuss any necessary adjustments or revisions to the technical deficiency letter with the Section Chief and Lead Reviewer for revision; and
- B. Forward the Technical Deficiency Letter and application materials necessary for review to the Section Chief for Technical Review Finalization.

XII. Technical Review Finalization (Section Chief)

The Section Chief will:

- A. Finalize, coordinate word processing with the Division Secretary, sign and send the Technical Deficiency Letter;
- B. Enter a subtask of **SDN** - Send Deficiency Notice/Receive Response into eFACTS with a start date corresponding to the date of the letter;
- C. Enter the request for additional information date in the Environmental Assessment (EA) in the Correspondence Tracking component of the Dam Database.
- D. Forward the application materials to the Lead Reviewer in anticipation of an applicant response to the Technical Deficiency Letter.

XIII. Response to Technical Review Receipt (Division Secretary)

When a response to the Technical Review is received, the Division Secretary will:

- A. Date-stamp the cover letter of the submission; and
- B. Forward the entire submission to the Section Chief.

XIV. Response to Technical Review Assignment (Section Chief)

The Section Chief will:

- A. Enter received dates in the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database; and
- B. Forward the submission to the Lead Reviewer.

XV. Response to Technical Review (Lead Reviewer)

The Lead Reviewer will review the response and;

- A. **Technical Deficiencies Addressed** - If the applicant responds to the Technical Deficiency Letter within 60 calendar days, enter an end date for the **SDN** subtask in eFACTS corresponding to the date the submission was received and repeat the necessary steps in IX. Technical Review above. If the technical deficiencies are adequately addressed proceed to XVII. Application Finalization.
- B. **Technical Deficiencies Not Addressed** - If the applicant fails to respond to the Technical Deficiency Letter within 60 calendar days, or if the response fails to address the issues raised in the Technical Deficiency Letter, the Lead Reviewer will enter a Sub Task of "**ELEV**" (Elevated Review Process) Sub Task in eFACTS and brief the Section Chief, Division Chief and Bureau Director on the circumstances.

If following the Elevated Review Process results in the decision to deny the application, the Lead Reviewer will enter a **DENT** (App Technically Deficient – Denied) Sub Task into eFACTS, enter start and end dates for the **DENT** Sub Task corresponding to the date of the decision, enter end dates for the **SDN** and **ELEV** Sub Tasks, prepare a letter for Division Chief signature that denies the application and close the EA Approval in eFACTS using the disposition code **DENI** (Denied). Enter end dates in the Environmental Assessment (EA)

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Record in the Correspondence Tracking component of the Dam Database and change the record status to final.

If following the Elevated Review Process results in the decision to allow an additional technical deficiency response, document the decision and terms of the additional response in the application file and repeat the necessary review steps above.

XVI. Application Finalization (Lead Reviewer)

Once the technical review process has concluded and resulted in an approvable Environmental Assessment Application in all areas of the technical review, all application materials will return to the Lead Reviewer. The Lead Reviewer will:

- A. Create the Standard Task in eFACTS and enter the start date;
- B. Create the appropriate Sub Tasks in eFACTS and enter start dates;
- C. Complete a Record of Decision that includes all relevant information regarding the Environmental Assessment Application;
- D. Complete a draft of the EA Approval letter;
- E. Enter end dates for the appropriate Sub Tasks in eFACTS;
- F. Enter the management review date in the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database; and
- G. Forward the Record of Decision, draft EA Approval letter, and Environmental Assessment Application file to the Section Chief.

XVII. Section Chief Decision Review for EA Approval Issuance (Section Chief)

The Section Chief will:

- A. Review the Record of Decision and the draft EA Approval letter and discuss any necessary adjustments or revisions to the report with the Lead Reviewer for revision;
- B. Enter the end date for the Section Chief Review Sub Task in eFACTS;
- C. Enter end dates in the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database;
- D. Review the EA Approval letter; and
- E. Forward the Record of Decision, EA Approval letter, and Environmental Assessment Application file through the Division Secretary for finalization of the EA Approval letter and forwarding to the Division Chief.

XVIII. Division Chief Decision Review for EA Approval Issuance (Division Chief)

The Division Chief will:

- A. Review the Record of Decision;

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- B. Sign the EA Approval letter;
- C. Enter end dates in the Environmental Assessment (EA) Record in the Correspondence Tracking component of the Dam Database; and
- D. Forward the EA Approval letter, Record of Decision, and Environmental Assessment Application file to the Division Secretary for EA Approval Letter Mailing.

XIX. EA Approval Letter Mailing (Division Secretary)

The Division Secretary will:

- A. Prepare a package for mailing to the U.S. Army Corps of Engineers, if appropriate, to include a copy of the Environmental Assessment and a copy of Federal permits issued with the project;
- B. Mail the EA Approval letter; and
- C. Forward the package to the Administrative Assistant for Final Close Out.

XX. Final Close Out (Administrative Assistant)

The Administrative Assistant will:

- A. Change the Disposition of the eFACTS record from "Pending" to "Issued (Mailed)", and ensure there are no documents in the list with a Disposition of "Pending";
- B. Advertise EA Approval in the PA Bulletin;
- C. File the EA Approval file in the appropriate location in the dam files.

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Attachment A

SECTION E. INFORMATION COMPLETENESS CHECKLIST		
Owner must place an entry - Y = Yes, N = No, N/A = Not Applicable - in each left side column space. See Sections 105.13, 105.14, and 105.15 for additional details.		
REQUIREMENT	Applicant Entry	DEP Use Only
a. Location Map		
b. Determination of historic/archaeological sites		
c. Completed and approved Supplement No. 1 Form (PNDI search)		
d. Site Plan (including cross sections)		
e. Project description narrative		
f. Color photographs with map showing location taken		
g. Environmental Assessment forms		
h. Mitigation plan		
i. Alternatives Analysis		
FOR NON-JURISDICTIONAL DAMS LOCATED IN AN EXCEPTIONAL VALUE WATERSHED SUBMIT THE FOLLOWING ADDITIONAL INFORMATION		
j. The mean depth and maximum depth of the stream at the location of the dam.		
k. Description of the release structure.		
l. The rate of a conservation release		
m. The design of bypass structures		
n. The use of the dam.		
o. The material used for dam construction.		
FAILURE TO PROVIDE ALL OF THE REQUESTED INFORMATION WILL DELAY THE DEPARTMENT'S REVIEW		