

**Standard Operating Procedure (SOP)¹ for District Mining Operations
PASPGP Permit Submission
SOP No. BMP-003
Rev. August 24, 2021**

This SOP describes the methods by which the Bureau of District Mining Operations (DMO) will conduct reviews of mining permit applications to determine applicability of PASPGP permit review. The process outlined below will ensure that application packages are accurate and complete, and that the Department and other agencies involved in the review can process requests in a timely manner and assist DMO staff in meeting Permit Decision Guarantee timelines. This SOP will be revised as needed with each reissuance of the PASPGP.

The Pennsylvania State Programmatic General Permit (PASPGP) is a federal authorization issued for use in the Commonwealth of Pennsylvania under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA). The PASPGP authorizes work in navigable waters of the United States under Section 10 of the RHA and the discharge of dredged and/or fill material into waters of the United States, including jurisdictional wetlands, under Section 404 of the CWA. The PASPGP is reissued every 5 years with a new designation number, and delegates the ability to verify Federal authorization under the PASPGP to PADEP in certain specific circumstances. All mining activities proposing impacts to waters of the U.S. are considered Reporting Activities and will be reviewed for authorization under PASPGP by the United States Army Corps of Engineers (USACE) on a statewide basis.

The PASPGP authorizes the discharge of dredged and/or fill material, and/or the placement of structures, that are part of a single and complete project, including all attendant features both temporary and permanent, which individually or cumulatively result in direct or indirect impacts to 1.0 acre or less of waters of the U.S., including jurisdictional wetlands. For purposes of this permit, the acreage of impact to waters of the U.S. (including jurisdictional wetlands) includes the direct impact (i.e., fill area) plus the area of waters of the U.S. (including jurisdictional wetlands) that are indirectly affected by flooding, excavation, or drainage as a result of the regulated activity, either permanently or temporarily.

REQUIRED INFORMATION

PASPGP packages are submitted to the appropriate DMO along with the mining permit application. For a PASPGP request, the package must contain the following:

- Project narrative describing proposed impacts to water courses, wetlands, and/or water bodies
- Detailed drawings and maps showing all stream and wetland impacts (including those

¹ 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 weigh 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.

within 1,000 ft. of the proposed permit boundary); (Maps larger than 8.5 X 11" should be submitted in digital format.)

- Aquatic Resources Impact Table (3150-PM-BWE0557)
- Wetland Delineation Report, including plans²
- All PNDI search results and any correspondence
- PHMC verification from <https://share.phmc.pa.gov/pashare/landing>
- Mitigation plans that will affect or potentially affect water courses, wetlands, and/or water bodies.

PREAPPLICATION

The pre-application process should be recommended for applicants applying for anthracite, bituminous, and industrial mineral mining permits. Pre-application conferences are not required but should be strongly encouraged for those applicants affecting streams and/or wetlands. Larger and/or more complex projects may require a pre-application conference (decided on an individual case-by-case basis). For projects that will or may impact such areas, extend the invitation to attend pre-application meetings to the USACE. Every effort should be made to coordinate the date and time of meetings with all involved resource agencies as well as County Conservation Districts.

Under the PASPGP guidelines, a mining activity that is proposing a discharge³ of dredged and/or fill material into waters of the U.S., including jurisdictional wetlands, under Section 404 of the CWA is considered a *Reporting Activity*, meaning that the Department must notify the USACE of the proposed intention to conduct mining operations. Mine operators considering activities that may impact waters and/or wetlands should plan to submit pre-applications to the DMO at least 180 days prior to anticipated submittal of formal applications to allow sufficient time for the USACE, DMOs and other Bureaus and agencies to review and comment. A complete and accurate submission of all items required to satisfy pre-application submission will pre-empt questions that may arise during the field inspection and will aid in PASPGP eligibility determination.

The mining permit applicant should be instructed to consult the pre-application checklist document (Coal 5600-PM-BMP0391, Noncoal 5600-PM-BMP0389) for submittal of a complete pre-application package. For an applicant proposing to impact waters and/or wetlands, Module 14: Streams and Wetlands (Module 15 of the same name for underground mining applications) should include the USACE required wetland delineations to aid in determining the extent of wetlands and water ways that will be impacted, and providing a demonstration of how to possibly avoid and minimize those impacts. The delineations of wetland boundaries shall be accomplished in accordance with the 1987 Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1) and should include all applicable guidance and regional supplements.

REVIEW

DMO Review

Upon receipt of the permit application package, the DMO conducts the standard acceptance review to ascertain inclusion and completeness of the required modules for the mining permit application and information for the associated PASPGP request. If the application proposes work that will impact waters and/or wetlands, DMO forwards the completed items outlined on the checklist to the appropriate USACE District Office so that they can determine eligibility for a

² Delineated per the 1987 Corps of Engineers Wetland Delineation Manual [Technical Report Y-87-1].

³ 33 CFR § 323.2(d) "Discharge" is any fill or dredged material used

Federal determination of jurisdiction. The DMO completes the PASPGP coversheet to include in the package.

Application Routing

Immediately after the acceptance review, the DMO sends the coversheet and application electronically to USACE District email:

Pittsburgh District email: regulatory.permits@usace.army.mil

Baltimore District email: nab-regulatory@usace.army.mil

Philadelphia District email: philadelphiadistrictregulatory@usace.army.mil

If the application is too large to email, request an invitation to upload to DODSafe or other USACE approved file upload site. (DMO SharePoint can be used if the USACE reviewer has access.)

OR

The DMO sends notice to the applicant, with coversheet indicating proper USACE email address that the project is Reporting, and they must submit the coversheet and application to USACE electronically. Applicant may email USACE for invitation to DODSafe or other USACE approved upload site if the file is too large to email.

Discrepancies and Deficiencies

If, during the review of the PASPGP, the DMO permit reviewer discovers a discrepancy in the information between the PASPGP information and other mining permit application modules, the deficiency should be noted in a Technical Deficiency Letter (TDL). A copy of the TDL should also be sent to the USACE to notify them of pending issues and/or changes. Minor issues, such as illegible legends or symbols on provided maps, may be corrected by calling the providing consultant. In such cases the call(s) should be documented.

USACE Review

USACE staff will review the PASPGP package promptly upon receipt to determine project eligibility under PASPGP guidelines. Then, the USACE staff will do one of the following actions:

1. If the package is complete and meets the requirements for a PASPGP, the USACE will issue verification to the applicant and send a copy to the Department.

OR

2. If the project is not eligible for a PASPGP authorization and requires an alternative form of Section 10 and/or 404 authorizations, such as a Chapter 105 Water Encroachment Permit the USACE will notify the Applicant and DMO in writing, with the recommendations for the applicable permit application for the mining activity.

Jurisdictional Determinations

Jurisdictional Determinations are made using the Jurisdictional Determination Form Instructional Guidebook. The scope of geographic jurisdiction is defined by Federal Law under the CWA and

the RHA of 1899 §§9 – 10. Nothing in this SOP nullifies or supersedes the roles and responsibilities of the USACE and/or the Environmental Protection Agency (EPA) regarding determination of the scope of geographic jurisdiction. Jurisdictional Determinations will be coordinated with the EPA as appropriate.

Mining Permit Issuance

The DMO will include notification of the approval in the permit information. Example:

The following permits and approvals are associated with this permit:

Coverage under PASPGP-X {insert current number as applicable} for {description} supported by the determination made by USArmy Corps of Engineers, District {name} dated {date}.

In the case where a permit can be issued but the DMO has not yet received USACE approval, the DMO must make a professional determination as to whether the activities can be authorized without this additional approval. If reasonable activities can take place prior to affecting the streams or wetlands, the DMO may issue the mining permit with a special condition that the permittee is to obtain the PASPGP coverage before commencing that work. If the mining activity cannot be performed without affecting streams or wetlands as described, then the permit will not be issued until the USACE approval is obtained. If the DMO denies a mining permit, an entirely new project must be proposed to receive USACE approval.

VERSIONS	
Date	Description
2017-June-01	New document
2021-Aug-24	Revised to update to PASPGP-6 version. Generalized GP label.



PASPGP Cover Sheet

- | | | |
|---|---|---|
| <input type="checkbox"/> Army Corps of Engineers
Pittsburgh District
Regulatory Branch
Federal Building, 20 th floor
1000 Liberty Avenue
Pittsburgh, PA 15222-4186 | <input type="checkbox"/> Army Corps of Engineers
Baltimore District
Pennsylvania Field Office
1631 South Atherton Street
Suite 101
State College, PA 16801-6260 | <input type="checkbox"/> Army Corps of Engineers
Philadelphia District
Regulatory Branch
Wannamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390 |
|---|---|---|

The attached information is enclosed for the following reason:

- Reporting:** Attached application requires Corps review for the following reasons (select all applicable Reporting reasons/activities - **see Part IV.B.**). If project crosses Corps District boundaries, check here :

<input type="checkbox"/> 1. Corps review requested	<input type="checkbox"/> 2. Exceeds reporting thresholds	<input type="checkbox"/> 3. Utility lines requiring reporting
<input type="checkbox"/> 4. Previous fed. authorization	<input type="checkbox"/> 5. Endangered species	<input type="checkbox"/> 6. Jurisdictional dam maintenance
<input type="checkbox"/> 7. Historic properties	<input type="checkbox"/> 8. National Wild/ Scenic Rivers	<input type="checkbox"/> 9. No restrictive covenant
<input type="checkbox"/> 10. Activities requiring EIS	<input type="checkbox"/> 11. Delaware River (portions)	<input type="checkbox"/> 12. Crosses PA boundary
<input type="checkbox"/> 13. Mining activities	<input type="checkbox"/> 14. Mitigation Bank/ ILF site	<input type="checkbox"/> 15. Corps Civil Works or Property
<input type="checkbox"/> 16. Reasonably related apps	<input type="checkbox"/> 17. Cannot comply EFH	<input type="checkbox"/> 18. Temp impacts greater than 1yr (See Additional Information)

- Non-Reporting:** Application, copy of State authorization with Record of Decision (if applicable), Cover Sheet, and copy of PASPGP verification sent to Corps. Multiple applications/registrations with supporting documents, including PADEP authorization numbers, may be submitted under one cover sheet, provided applications/registration are packaged and attached to a cover sheet with this box checked:

Multiple Applications/Registrations Attached

- Emergency Permit:** Check this box and send information to the Corps expeditiously if an Emergency Permit (EP) with PASPGP Verification has been issued, and PNDI has unresolved impacts to Federal Threatened or Endangered Species. (Copy of EP, Cover Sheet, any plans, and PNDI results sent to Corps)

Additional Information:

- Copy of State Auth. and ROD included (for Reporting Applications Previously Sent)
- Associated ___pending, ___issued, or ___reasonably related ___permit, ___authorization, or ___modification:

DEP Authorization # _____

Corps Permit # _____ (if known)

Chapter 106 Floodway Only Impacts

Not eligible for PASPGP

Other: _____

<input type="checkbox"/> RO <input type="checkbox"/> CCD	County:	Date:
Permit Reviewer:	E-mail:	Phone: