

**Standard Operating Procedure (SOP)<sup>1</sup> for  
Review of Act 167 Stormwater Management Plans  
SOP No. BCW-SWM-001  
Final, September 1, 2022  
Version 1.0**

This SOP describes the procedures by which the Department of Environmental Protection (DEP) will review new or revised Act 167 Stormwater Management Plans (“Act 167 Plans”) submitted to the DEP Regional Offices. This SOP is intended to facilitate consistent statewide implementation for the review of county or watershed-based Act 167 plans as outlined in Act 167. Act 167 Plan reviewers should complete each step of this SOP in order unless otherwise indicated.

Act 167 requires each county to prepare and adopt a watershed stormwater management plan for each watershed within the county (or the county as a whole) and to review and revise the plan as needed, but at a minimum of every five years. DEP, in consultation with the Department of Community and Economic Development (DCED), has 90 calendar days to review and approve or disapprove the plan. If no action is taken on the plan within 90 calendar days the plan is deemed approved.

Counties are not required to submit a proposed scope of work to DEP in advance of the development of or revision to Act 167 Plans.

DEP Regional Offices maintain the official files for Act 167 Plan reviews and approvals within their jurisdictions.

**I. Receipt of Act 167 Plans.**

Once a new or revised Act 167 Plan is received, the assigned staff will:

- A. Issue an email to the county confirming receipt of the plan within 10 business days of receipt.
- B. Create an authorization record in eFACTS using authorization type code “A167” within 10 business days of receipt. The initial receipt of plans following the effective date of this SOP should be recorded with an application type of “NEW” even if the plan is considered a revision. Upon receipt of subsequent plan updates, the application type of “AMEN” (amendment) should be used. Staff will record the name(s) of the watershed(s) applicable to the plan if the plan is watershed-based in the Purpose field of eFACTS’ application screen (otherwise no information is needed in this field). The Program ID should be in the format “ACT167-AA-B”, where AA = county code (see **Attachment A**) and B = plan number within the county. For county-wide plans, B = 1. For watershed-specific plans, number sequentially as plans are received. For example, an Act 167 Plan for “Muddy Run” in a particular county would receive number 1. An Act 167 Plan for “Little Creek” in the same county would receive number 2, and so on.

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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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**NOTE 1** – In order to create an “A167” authorization the user must have eFACTS security for the WPCES program and the organization code for the appropriate regional office.

1. Create a Site in eFACTS if one does not already exist. The Site should be named “XXX County Act 167 Plan – YYY”, where XXX = county name and YYY = watershed name, if applicable. Create a Client/Site Relationship with the proper Client.
2. Create a Primary Facility (PF) using a PF Type of Water Pollution Control Facility (“WPCF”), a PF Kind of Stormwater – Municipal (“SWM”) and an Other ID type of WPC NPDES Permit (“WPCNP”). The Other ID should be in the format “ACT167-AA”, where AA = county code (see **Attachment A**). Enter a PF Mailing Address and PF Location Address (the location address should be the same as the mailing address). Record Latitude and Longitude coordinates using the geographic center of the area covered by the plan. Enter a primary SIC code (use 9121 unless information is available to the contrary).
3. Create one subfacility (SF) with an SF Type of Land Discharge (“LD”).
4. Create and/or associate the proper client to the PF.
5. Enter the date the Act 167 Plan was received (“Recvd”) and the date the administrative staff creates the authorization (“Admin”) into the eFACTS Application Screen.
6. Select the lead reviewer for review of the Act 167 Plan.
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 Act 167 Plan was received.
9. If a consultant is identified on the Act 167 Plan, select the appropriate client or otherwise create the consultant as a client on the Application Screen.
10. Link the PF/SF to the authorization and validate the Master Auth and the current authorization for the Water Management System (WMS).

**II. Review of Act 167 Plans and Model Ordinances**

The date the plan is received at the DEP Regional Office begins the 90-day review period.

- A. When the application manager receives the Act 167 Plan, the application manager will, within 10 business days of receipt:
  1. Review the Act 167 Plan for completeness. A complete Act 167 Plan should include:
    - a. A completed DEP Cover Sheet supplied by the responsible county.
    - b. A new or revised Act 167 Plan.
  2. If none of the criteria in A.1 are found to be deficient, the application manager will enter an end date for the “COMPL” subtask, enter the same date in the “Accepted” field in the eFACTS Application screen, and proceed to Step II.A.2.b.

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- a. If the Act 167 Plan is considered incomplete, and the county chooses to not withdraw the plan, continue to Step III B, below.

**NOTE 2** – If the Regional Office review determines there are minor completeness deficiencies, the county may be contacted and given the opportunity to make the submittal complete within two business days or withdraw the plan to make changes. If the county chooses not to withdraw the plan or is unable to make the submittal complete within two business days, the Regional Office will continue to Step III B, below.

- b. If the Act 167 Plan is considered complete, provide a copy of the plan to the Regional DCED office for review within 10 business days of receipt through a letter or email, using a template available in Water Management System (WMS) at *Act 167 – DCED Review Letter*. See **Attachment B** for DCED regional contact information. The letter or email will request DCED comments within 60 calendar days. Then proceed to Step II.B.

**B. Technical Review**

1. Enter a “DR” (Decision Review) subtask in eFACTS under the Technical Review task, with a start date corresponding to the date that the application is determined to be complete.
2. Technical Reviews of Act 167 Plans – The technical review of Act 167 Plans will be documented by completing the Act 167 Plan Review Checklist template (“review checklist”) in WMS at *Act 167 – Act 167 Plan Review Checklist*.
3. Each new or revised plan should meet the criteria as outlined in the review checklist which corresponds with sections 5(b) & (c) of Act 167. If the county is submitting a revision, it should be documented that each criterion was evaluated regardless if a change was made to that criterion in the revised plan. An Act 167 Plan must satisfy the criteria as described in each section of the review checklist in order to be considered for approval.
4. Each Act 167 Plan must:
  - a. Contain such provisions as are reasonably necessary to manage stormwater such that development or activities in each municipality within the watershed do not adversely affect health, safety, and property in other municipalities within the watershed and in basins to which the watershed is tributary; and
  - b. Consider and be consistent with other existing municipal, county, regional and State environmental and land use plans.
5. Each Act 167 Plan should be reviewed to ensure that it does not regulate or endorse the regulation of “High Tunnels” in a manner contrary to Act 15 [Act of April 15, 2018, P.L. 91, No. 15] (see **Attachment C**). The requirement is considered satisfied if the county provides assurance in the Cover Sheet that the plan and any model ordinance only regulate High Tunnels in a manner consistent with Act 15.
6. If a model Stormwater Management Ordinance (“ordinance”) is included as part of the Act 167 Plan the ordinance will be reviewed as part of the overall plan review (see review checklist). If the county creates a model ordinance separate from the plan the county may request DEP review of a proposed model ordinance as technical assistance. The review of ordinances does not need to be recorded separately in eFACTS.

If a model ordinance is part of a DEP-approved Act 167 Plan the county may subsequently change the model ordinance if the county determines that the revision remains consistent with the plan. If the change to the ordinance would make it inconsistent with the plan, the plan must be resubmitted and approved by DEP before the model ordinance is changed.

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If a model ordinance is not part of a DEP-approved plan the county may change the model ordinance without DEP approval as long as the changes are consistent with the approved plan and Act 167.

**III. Final Action on Plan**

Under Act 167, DEP must approve the plan when it determines: 1) that the plan is consistent with municipal floodplain management plans, State programs which regulate dams, encroachments, and water obstructions, and State and Federal flood control programs; and 2) that the plan is compatible with other watershed stormwater plans for the basin in which the watershed is located, and is consistent with the policies and purposes of Act 167.

- A. If the assigned staff determines that the plan is complete and meets technical criteria, and DCED has not raised any significant concerns, staff will:
1. Generate an approval letter from WMS using the template at *Act 167 – Act 167 Plan Approval Letter*. The letter will be set to a status of Pending and the box for Final will be checked. There will only be one version of the letter.
  2. Save the completed Act 167 Review Checklist to WMS. The review checklist will be set to a status of Pending and the box for Final will be checked. There will only be one version of the review checklist.
  3. Print the documents generated in WMS and submit the package to the Program Manager or otherwise notify the Program Manager that documents are available in WMS for review and approval.
    - a. The Program Manager will review the documents and sign the approval letter if the Program Manager is in agreement with the content, or otherwise return the package to the appropriate staff for edits.
    - b. Submit the final, signed approval package to the appropriate staff for final processing, and proceed to Step IV.
- B. If the assigned staff determines that the plan is incomplete or technical criteria have not been met, or if DCED has raised significant concerns:
1. A disapproval letter from the appropriate WMS template will be generated, edited as needed, and saved to WMS using the template at *Act 167 – Disapproval Letter*. The letter will be set to a status of Pending and the box for Final will be checked. There will only be one version of the letter.
  2. The completed Act 167 Review Checklist will be saved to WMS. The review checklist will be set to a status of Pending and the box for Final will be checked. There will only be one version of the review checklist.
  3. Print the documents generated in WMS and submit the package to the Program Manager or otherwise notify the Program Manager that documents are available in WMS for review and approval.
    - a. The Program Manager will review the documents and sign the disapproval letter if the Program Manager is in agreement with the content, or otherwise return the package to the appropriate staff for edits. The documents will be signed by typing the Program Manager's name or by adding a signature graphic.

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- b. Submit the final, signed disapproval package to the appropriate staff for final processing.

**NOTE 3** – If the Regional Office review determines there are minor technical deficiencies, the county may be contacted and given the opportunity to make corrections within two business days or withdraw the plan to make changes. If the county chooses not to withdraw the plan or is unable to make the corrections within two business days, the Regional Office will proceed with disapproval.

**NOTE 4** – Disapproval letters must indicate whether another formal public hearing must be held. If the issues in the disapproval are relatively minor, the letter may allow the county to decide if a hearing is necessary. If the latter approach is used, the county should be advised to offer alternative means to provide for public input, such as to publish notice that the plan will be discussed at a public meeting and invite public input at that time. A resubmittal must include a summary of the public hearing or public meeting.

#### **IV. Final Processing**

The appropriate staff will complete the following tasks upon receipt of the final, signed approval or disapproval letter from the Program Manager:

- A. Open the review checklist and the approval or disapproval letter in WMS and verify the checklist and letter have been signed and dated. Change the disposition of the review checklist from “Pending” to “Complete”. The disposed date will be the date that the approval or disapproval letter is issued.
- B. 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 by using a disposition code of Issued (ISSU) when a plan is approved and Denied (DENI) when a plan is denied.
- E. The approval or disapproval letter will be sent via email to the applicant (county) and consultant(s) with a copy to the Bureau of Clean Water, NPDES Permitting Division (via email at RA-EPPAMS4@pa.gov) and DCED. Alternatively, the approval or disapproval letter may be sent via Certified Mail. If an approval letter is being sent, the letter will direct the county to notify all affected municipalities of the approved plan and the requirement to review and revise the plan within five years. If a disapproval letter is being sent, a subsequent resubmittal of the plan initiates a new 90-day review period.
- F. Submit a PA Bulletin notice for the Act 167 Plan approval or denial in the Special Notices section using the [PA Bulletin Solution Tool](#). In the tool select “02\_Actions” for Template Type, then “01\_NPDES\_Federal” for Template Sub Type, then “04\_##\_Act\_167\_Plan” for Template Name.
- G. Transmit the files to the regional office file room.

**Attachment A – County Codes for Act 167 Plan Authorizations and Facilities**

<b>County</b>	<b>Code</b>	<b>County</b>	<b>Code</b>	<b>County</b>	<b>Code</b>
Adams	01	Delaware	23	Monroe	45
Allegheny	02	Elk	24	Montgomery	46
Armstrong	03	Erie	25	Montour	47
Beaver	04	Fayette	26	Northampton	48
Bedford	05	Forest	27	Northumberland	49
Berks	06	Franklin	28	Perry	50
Blair	07	Fulton	29	Philadelphia	51
Bradford	08	Greene	30	Pike	52
Bucks	09	Huntingdon	31	Potter	53
Butler	10	Indiana	32	Schuylkill	54
Cambria	11	Jefferson	33	Snyder	55
Cameron	12	Juniata	34	Somerset	56
Carbon	13	Lackawanna	35	Sullivan	57
Centre	14	Lancaster	36	Susquehanna	58
Chester	15	Lawrence	37	Tioga	59
Clarion	16	Lebanon	38	Union	60
Clearfield	17	Lehigh	39	Venango	61
Clinton	18	Luzerne	40	Warren	62
Columbia	19	Lycoming	41	Washington	63
Crawford	20	McKean	42	Wayne	64
Cumberland	21	Mercer	43	Westmoreland	65
Dauphin	22	Mifflin	44	Wyoming	66
				York	67

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**Attachment B – DCED Contacts**

DCED Regional Planner addresses and respective counties:

**Western Pennsylvania**

Regional Planner  
DCED Southwest Regional Office  
301 Fifth Avenue, Suite 250  
Pittsburgh, PA 15222  
412-565-5098

- Erie
- Crawford
- Mercer
- Lawrence
- Beaver
- Washington
- Greene
- Warren
- McKean
- Venango
- Forest
- Elk
- Cameron
- Clarion
- Jefferson
- Clearfield
- Butler
- Armstrong
- Indiana
- Cambria
- Blair
- Allegheny
- Westmoreland
- Fayette
- Somerset
- Bedford

**Central Pennsylvania**

Regional Planner  
DCED  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120  
717-720-7301

- Potter
- Tioga
- Clinton
- Lycoming
- Centre
- Union
- Snyder
- Huntingdon
- Mifflin
- Juniata
- Perry
- Cumberland
- Fulton
- Franklin
- Adams

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**Northeastern Pennsylvania**

DCED Northeast Regional Office  
2 North Main Street  
Pittston, PA 18640  
570-963-4122

- Bradford
- Susquehanna
- Wayne
- Sullivan
- Wyoming
- Lackawanna
- Pike
- Monroe
- Luzerne
- Columbia
- Montour
- Northumberland
- Schuylkill
- Carbon

**Southeastern Pennsylvania**

Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120  
717-720-7301

- Dauphin
- Lebanon
- Berks
- Lehigh
- Northampton
- Bucks
- Montgomery
- York
- Lancaster
- Chester
- Delaware
- Philadelphia

NOTE: All DCED Regional Planners are on the staff of the Center for Local Government Services, and an optional means of contact is the toll-free number and resource account for the Center:

888-223-6837  
[ra-dcedclgs@pa.gov](mailto:ra-dcedclgs@pa.gov)



Attachment C – Act 15 of 2018

**STORM WATER MANAGEMENT ACT - EFFECT OF WATERSHED STORM WATER  
PLANS**

Act of Apr. 18, 2018, P.L. 91, No. 15

Cl. 32

Session of 2018

No. 2018-15

HB 1486

AN ACT

Amending the act of October 4, 1978 (P.L.864, No.167), entitled "An act providing for the regulation of land and water use for flood control and storm water management purposes, imposing duties and conferring powers on the Department of Environmental Resources, municipalities and counties, providing for enforcement, and making appropriations," further providing for definitions and for effect of watershed storm water plans.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4 introductory paragraph of the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act, is amended and the section is amended by adding a definition to read:

Section 4. Definitions.

The following words and phrases when used in this act shall have[, unless the context clearly indicates otherwise,] the meanings given to them in this section **unless the context clearly indicates otherwise:**

\* \* \*

**"High tunnel." A structure which meets the following:**

- (1) Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," or for the storage of agricultural equipment or supplies.
- (2) Is constructed consistent with all of the following:
  - (i) Has a metal, wood or plastic frame.
  - (ii) When covered, has a plastic, woven textile or other flexible covering.
  - (iii) Has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

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\* \* \*

Section 2. Section 11 of the act is amended by adding a subsection to read:

Section 11. Effect of watershed storm water plans.

\* \* \*

(c) The following shall apply:

(1) A high tunnel shall be exempted from the provisions of this act if:

(i) the high tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area; and

(ii) the high tunnel meets one of the following:

(A) The high tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line.

(B) The high tunnel is located at least 35 feet from any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%.

(C) The high tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing storm water runoff in a manner consistent with requirements of this act.

(2) A municipality that has adopted a local ordinance or regulation that regulates high tunnels pursuant to a watershed storm water plan under this section prior to the effective date of this subsection shall amend the ordinance or regulation to comply with this subsection.

(3) Nothing in this subsection shall be construed to exempt high tunnels from other requirements applicable under Federal, State or municipal laws.

Section 3. This act shall take effect in 60 days.

APPROVED--The 18th day of April, A.D. 2018.

TOM WOLF

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**Version History**

<b>Date</b>	<b>Version</b>	<b>Revision Reason</b>
9/1/2022	1.0	Original