



Revised Policy for Pennsylvania Natural Diversity Inventory (PNDI) Coordination Related to Chapters 102 and 105 Permit Decision Reviews

Department of Environmental Protection

June 19, 2013

Agenda

1. Review of Highlights of Revised PNDI Policy for Chapter 102, Erosion and Sediment Control, and Chapter 105, Dam Safety and Waterway Management
2. Questions

Chapter 102

- Permit application requirement
 - § 102.6(a)(2) Proof of consultation with PNHP (PNDI)
 - State or Federal Threatened or Endangered (T&E) Species; Critical Habitat
- Avoidance or prevention of the impact
- Demonstrate minimization of impacts in accordance with State and Federal Laws

Chapter 105

- Permit Application Requirement
 - § 105.13(d)(1)(x) Impacts analysis to fish, wildlife, aquatic habitat
 - § 105.401(2) Includes T&E; critical habitat
- § 105.16(c)(3) Environmental, social, and economic balancing
- § 105.17(1)(i) and (ii) Determination for Exceptional Value Wetlands
- 105.381(e) Location of Dredging

PNDI Policy

- In Development since January 2012
- Collaborative Effort with DCNR, PFBC, others
- Public Comment Period
 - Opened November 10, 2012
 - Closed December 31, 2012
- Final Policy published May 25, 2013

Purpose of Policy

- Guidance for:
 - DEP Staff
 - Delegated Conservation Districts
 - Permit Applicants
- PNDI is a tool DEP Adopted for Permitting Purposes
- Listing Species or Control of Database not DEP Jurisdiction

Overall Changes

- Reorganized to improve structure and clarity
- Definitions
 - Critical Habitat
 - Rare & Significant Ecological Features

Large Project

- DCNR's Definition of Large Project Revised
- Based on limitations of PNDI Tool
- New Size effective September 21, 2012
 - Linear Projects up to 10 Miles Long
 - Maximum Area of Ground Disturbance 5,165 Acres
- Projects beyond this scope will need to submit a PNDI form

Receipts and Letters

- Effective as of July 2, 2012, Clearance Letters and Receipts Valid for 2 Years

Species of Special Concern

- Legal Requirement under Chapter 105 for Dams, Obstructions & Encroachments
- Jurisdictional Agency (JA) may request surveys
- DEP may be contacted, if JA and applicant disagree on need or scope of surveys
- DEP will discuss with both parties
- DEP makes final determination

Review Options

- Sequential Review
 - Traditional approach for identification/coordination
 - PNDI search conducted, receipt obtained
 - All clearances resolved, letter obtained
 - Both receipt and letter submitted with application
 - No delays in Permit Review Process & Permit Decision Guarantee (PRP/PDG) timeframes
(Provided full and complete application submission)

Review Options

- Concurrent Review
 - Non-traditional approach for coordination
 - PNDI search conducted, receipt obtained
 - Receipt submitted with application while JA consultation is ongoing
- Risks & Consequences to Applicant
 - Possible delays in PRP/PDG timeframes
 - Possible redesign as a result of JA consultation
 - Possible new submission

Regulatory Timeframes

- Under §102.6(c)(2) and §105.13a(b) an applicant has 60 days to provide the information necessary to complete the application and address all technical requirements
 - Includes NOIs under Chapter 102
- All items are present and the PNDI Receipt indicated a Potential Impact
 - May be considered complete but will be considered technically deficient until any conflicts are resolved



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DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waterways Engineering and Wetlands

Questions?