Pennsylvania Department of Environmental Protection

Bureau of Clean Water

Standard Operating Procedure (SOP)[1] for Clean Water Program
Joint Chapter 91.38 Permits (Algicides, Herbicides and Fish Control Chemicals)
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[1] **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. All hyperlinks in this SOP are intended for DEP use only.

Version History

Date	Version	Description	Author
7/7/2026	2.2	Updated to clarify that no fee is required for this permit type.	William Gaspari
5/29/2026	2.1	Updated to clarify the “Application Received Date” and related submission dates.	William Gaspari
6/30/2024	1.6	Updated to reflect Payback	Kevin McLeary
12/7/2018	1.5	Removed specification to enter an expiration date on the permit.	Sean Furjanic
4/3/2018	1.4	Updated references from NMS to WMS.	Sean Furjanic
1/17/2013	1.3	Added clarification that staff should use the County name as well as the Water Body name when naming the project (APS). Provided an alternative in Section IV D to requiring monitoring in the permit (issuing a letter to the applicant to obtain agreement from water supplier).	Sean Furjanic
12/28/2012	1.2	Clarified that a new Project (APS ID) should be assigned to each Joint Chapter 91 application because of PFBC’s entry of comments against Projects (rather than authorizations). Identified an NMS query that can be run to see which applications have already received PFBC’s comments.	Sean Furjanic
12/17/2012	1.1	Modified references to PF Kind (“Pesticides”) and SF Type (“Pesticides Treatment Area”). Added reference to PFBC’s use of the Project Description field to add comments pertaining to treatments that will be transferred to joint permit document in NMS. Added WQM permit numbering upon receipt of applications. Added requirement to use the name of the water body receiving treatment for the Project (APS) Name.	Sean Furjanic
11/9/2012	1.0	Original	Sean Furjanic

OBJECTIVE	This SOP describes the procedures by the Clean Water Program will process applications for new joint pesticide permits under Chapter 91.38, in which the PA Fish and Boat Commission (PFBC) and DEP jointly approve issuance of the permit. The authorization type covered by this SOP is "WQJ91" (Joint Chapter 91.38 Pesticides Permit). PFBC has established standard conditions and a standard approval for pesticide applications to "standing waters." PFBC actively reviews and provides comments on any proposed applications to free-flowing waters or where the use of fish control chemicals is proposed.
SCOPE	Under the Governor's Executive Order 2023-07 (Building Efficiency in the Commonwealth's Permitting, Licensing, and Certification Processes), DEP has 136 business days to take a final action on new and amended Joint Chapter 91.38 Pesticides Permits. Failure to take action within this period of time may result in a refund in the NOI fee ("PAyback").
ROLES AND RESPONSIBLITIES	The SOP is organized sequentially by activities that will be completed. The functional roles that are responsible for the activity are identified with the name of the activity as follows: • Preliminary Data Management and Fee Processing (Administrative Staff) • Coordination and Prioritization (Section Chief) • Completeness Review (Application Manager) • Technical Review and Preparation of Permit (Application Manager) • Final Review (Section Chief) • Final Decision (Program Manager) • Final Permit Processing (Administrative Staff or Application Manager) **Administrative Staff –** Administrative staff based on regional staffing and policy. Administrative staff are responsible for receiving and date stamping hard copies of applications, scanning them into the computer and emailing them to the appropriate Application Manager. They are responsible for fee processing. They are responsible for creating an electronic file folder and entering the module into eFACTS if the Application Manager does not. **Application Manager –** Responsible for ensuring fees are in accordance with 25 Pa. Code Chapter 91. Responsible for completeness and technical reviews of the module, coordinating the review with other staff, such as the Hydrogeologist. Prioritization of application received is expected with the assistance of the Section Chief. Responsible for communicating with the applicant and for preparing Deficiency, Approval and Denial Letters. They are responsible for ensuring the application meets all review timelines. Responsible for briefing management during an Elevated Review. Responsible for distributing final letters to all parties, closing out eFACTS and populating the electronic file folder with the module and all supplemental information. **Section Chief** – Responsible for reviewing and revising the application Deficiency, Approval and Denial letters prior to signing the letters.

	Responsible for being part of the Elevated Review Process. Responsible for ensuring the application meets all review timelines. **Program Manager** – Responsible for being part of the Elevated Review Process. Responsible for ensuring the application meets all review timelines. **Regional Director or Bureau Director** - Responsible for being part of the Elevated Review Process, if applicable.
MATERIALS AND EQUIPMENT	• Computer • Access to eFACTS • Access to eMapPA • Photocopier/Scanner • Access to Title 25 Pa. Code • *The Clean Streams Law*

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INTRODUCTION

This SOP describes the procedures by the Clean Water Program will process applications for new joint pesticide permits under Chapter 91.38, in which the PA Fish and Boat Commission (PFBC) and DEP jointly approve issuance of the permit. The authorization type covered by this SOP is "WQJ91" (Joint Chapter 91.38 Pesticides Permit). PFBC has established standard conditions and a standard approval for pesticide applications to "standing waters." PFBC actively reviews and provides comments on any proposed applications to free-flowing waters or where the use of fish control chemicals is proposed.

DETAILS / PROCEDURES / STEPS

I. Preliminary Data Management and Fee Processing (Administrative Staff)

When applications are received, administrative staff will:

A. Create the authorization record in eFACTS.

1. Select the proper auth type code.

   A subtask of "SDN" (Send Deficiency Notice/Receive Response) shall be entered into eFacts with the corresponding date the incompleteness notification is sent to the applicant. A technical review of the application will not proceed until the correct fee is received.

   NOTE – There is no fee for joint Chapter 91.38 permits.

   NOTE – The Program-Specific ID (permit number) will be assigned using the same numbering system as for Water Quality Management (WQM) permits, where "8" will be used as the program code in the number.

   NOTE – A new Project (APS) is required for each Chapter 91.38 permit application. Each new, renewal, amendment and transfer application will need to have a unique APS ID. The reason is that PFBC will be entering their comments in the Project Description field (for the applications they review), and this field needs to be empty at the time they enter their comments.

2. Select the proper application type, using the appropriate regional organization code.

3. Associate the proper client and site to the project/authorization. If necessary, create the client, site, client/site relationship, at least one subfacility (SF) and the PF.

4. Enter the name of the county and water body that will be treated as the Project (APS) Name. (This name will be transferred to PFBC staff along with other information via email once the authorization is created and will assist PFBC with matching their paper application to the authorization in eFACTS for those applications they review). For example, "York County – Pinchot Lake."

5. Enter the date the application was received ("Recvd") and the date administrative staff creates the authorization ("Admin") into eFACTS' Application Screen. The application date received shall be based on the type of submission, as follows:

a. Electronic Submissions via Public Upload with Payment ("PUP"): The date indicated by the system-generated timestamp upon successful submission.

b. Physical Submissions: The date the submission is physically delivered to a DEP office as established by a verifiable system timestamp or documented physical receipt.

6. If required by eFACTS to create the authorization, select the lead reviewer as the Permits Chief. If the Permits Chief identifies the application manager at this step, the assigned application manager may be selected for the lead reviewer.

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 application was received.

9. Link the SF to the authorization record.

B. Enter or otherwise review and update PF and SF Details.

1. Update PF Mailing Address (client address) and Location Address (site address) in accordance with the application, as necessary.

2. Update the PF Kind to "Pesticides" as necessary.

3. Update the SIC or NAICS code for the PF, as necessary, and identify one SIC and/or NAICS code as the "Primary" code.

4. Ensure the Client ID and Other ID of the PF are identical to those for the authorization, otherwise update the PF.

C. Push Master Auth to WMS (if not done so previously), unless the current auth is the Master.

If the current auth is not the Master Auth, ensure the Master Auth linked to the current auth has been pushed to WMS already (otherwise, push the Master Auth to WMS).

II. Coordination and Prioritization (Section Chief)

Once Step I has been completed by administrative staff, the application will be given to the Permits Chief. The Permits Chief will:

A. Determine whether coordination with other applications is required. If this is the case, the Permits Chief will note on the application file or a permit tracking sheet so that the application manager is aware of needed coordination.

NOTE – The Permits Chief will evaluate whether an NPDES pesticide permit (individual permit or PAG-15 coverage) is required in addition to the joint Chapter 91.38 permit using the annual treatment thresholds contained in the PAG-15 General Permit and the latest version of the "Pesticides FAQ" document. If an NPDES permit is required, the Permits Chief will indicate this on the permit application folder or tracking sheet to ensure the application manager is aware. Where an NPDES permit is required, joint Chapter 91.38 permits will be coordinated with the NPDES permit.

B. Prioritize the application in accordance with the "Permit Review Hierarchy" contained in the PDG Policy. The Permits Chief will note on the application file or a permit tracking sheet the hierarchy number as contained in the Policy.

C. Assign an application manager (i.e., "lead reviewer") to the application unless this has been done previously. The Permits Chief will enter the name of the application manager into eFACTS for the authorization unless administrative staff has already completed this step.

III. Completeness Review (Application Manager)

A. A complete joint Chapter 91.38 permit application contains adequate responses to each question on the application form and a topographic map with the water body to be treated identified. If the information submitted is not adequate, the application manager will contact the applicant by phone and request updates within one business day. If there are, in the application manager's judgment, significant deficiencies, the application manager will deny the application using the WMS template at *Letters – Application Denial Letter*. PFBC will be copied on the letter.

B. If an NPDES permit NOI or application is required and has not been received:

1. A "CRR" (B/E Coordinated Application Required) subtask will be entered into eFACTS under the Completeness Review task.

2. The application manager (or Permits Chief) will place a phone call to the applicant to explain the need to submit an NPDES permit NOI or application.

3. If the applicant fails to submit the NOI or application within 15 business days of the phone call, or a longer period of time if agreed to by the application manager, the application manager will deny the application using the WMS template at *Letters – Application Denial Letter*. PFBC will be copied on the letter.

C. Complete the following data management tasks in eFACTS:

1. Create, or otherwise review and edit, one Pesticide Treatment Area ("PEST") SF for each treatment area. Where there are more than 10 treatment areas, one representative PEST SF may be used per water body or watershed. Use the mid-point of the treatment area for the latitude and longitude.

2. Enter, or otherwise review and edit, the PF latitude and longitude, using the coordinates reported on the NOI, or otherwise the mid-point of the largest treatment area.

3. Link the applicable SFs to the authorization record.

4. Push the authorization from eFACTS to WMS. If the authorization cannot be pushed to WMS and if the problem(s) cannot be resolved by the application manager, the application manager will first work with administrative staff to resolve the problem(s) and then contact Central Office if administrative staff cannot resolve them.

5. Enter an end date for the “COMPL” subtask.

IV. Technical Review and Preparation of Permit (Application Manager)

Applications will be reviewed in order of priority; in the event of a conflict, the matter will be resolved by the Permits Chief.

Once Step III is completed by the application manager, the application manager will:

A. Enter a “DR” (Decision Review) subtask in eFACTS. under the Technical Review task, with a start date corresponding to the day following the determination that the application is complete.

B. Determine whether there are any public water supplies downstream within 5 miles of the point of application. If yes, the application manager will look at the product label or instructions to determine restrictions in the vicinity of water supplies. The application manager will specify those restrictions on the Chapter 91 joint permit. If there are no such restrictions, and there are public water supplies within 5 miles, apply a condition in the joint Chapter 91.38 permit that notification to the water supplier is required at least 24 hours in advance of treatment, unless it is determined that sufficient dilution exists or otherwise the product will not reach the intake.

C. Apply any other conditions to the joint Chapter 91.38 permit that the application manager believes are pertinent based on the product label or instructions.

D. If the product or an active ingredient has a federal MCL/MCLG and a water supply intake exists less than 5 miles downstream, or the product label specifies that downstream water supply intakes should be shut off following application, the application manager should do one of the following:

   1. Require monitoring in the permit at or above the intake following the pesticide application unless it is determined that sufficient dilution exists or otherwise the product will not reach the intake.

   2. Issue a letter to the applicant requesting that they develop an agreement with or otherwise obtain concurrence from the public water supplier on the proposed treatment(s) and hold issuance of the permit until confirmation of this agreement or concurrence is received.

E. In general, issuance of a technical deficiency letter is unnecessary, and the application manager may acquire any deficient information by phone.

F. Complete the following data management tasks:

   1. The anticipated effective date of coverage will be entered into the permit document.

      NOTE – An expiration date is not required for a joint Chapter 91.38 permit; however, at the discretion of the application manager, an expiration date may be established for pesticide applications where there are “sensitive environmental conditions” (e.g., water supplies in close proximity to treatment areas, etc.), to provide for review of renewal applications periodically. In addition, if there are any changes to the water body to be treated, the maximum dose of the pesticide, or the active ingredient of the pesticide, the permittee will be required to submit a new application to amend the permit.

2. If a standalone joint Chapter 91.38 permit will be issued (i.e., the permit will not be attached to an NPDES permit), the joint Chapter 91.38 permit and approval letter will be generated, edited as needed and saved to WMS. The templates that will be used are in the *Chapter 91.38 Pesticides* folder and are named *Joint Chapter 91.38 Permit* and *Joint Chapter 91.38 Approval Letter*, respectively.

3. If the joint Chapter 91.38 permit will be issued concurrently with an NPDES permit, the joint Chapter 91.38 permit will be generated, edited as needed and saved to WMS. The template that will be used is in the *Chapter 91.38 Pesticides* folder and is named *Joint Chapter 91.38 Permit*.

   NOTE – Where the joint Chapter 91.38 permit is coordinated with an NPDES permit, use a cover letter in the appropriate NPDES folder that describes the coordinated permit issuance.

   NOTE – Fact sheets or Internal Review and Recommendations (IRRs) will not be prepared for joint Chapter 91.38 permits.

4. The documents identified in IV.E.2 and E.3 above will be set to a status of Final and a disposition of Pending. There will be only one version of each of these documents. The permit document, in Word, will have the effective and expiration dates of coverage identified.

5. Print the documents generated through WMS, assemble the final permit package, and submit the package with the NOI to the Permits Chief.

   NOTE – If the joint Chapter 91.38 permit is coordinated with an NPDES permit, the joint Chapter 91.38 permit will be attached to the NPDES permit (following the NPDES Annual Report).

6. Enter an end date for the "DR" subtask in eFACTS.

V. Final Review (Section Chief)

The Permits Chief will complete the following tasks upon receipt of the final permit package:

A. Review the final permit documents.

B. Verify that the minimum required documents from Step IV are in WMS as Final – Pending documents.

C. Verify that any applicable permit coordination has been completed.

D. Submit the final permit package to the Program Manager.

VI. Final Decision (Program Manager)

The Program Manager will complete the following tasks upon receipt of the final permit package:

A. Review the final permit documents.

B. Sign the final permit cover letter and sign and date the first page of the permit document if the Program Manager is in agreement with the content or otherwise return the package to the Permits Chief for edits.

C. Submit the final, signed permit package to administrative staff or the application manager (at regions' discretion).

VII. Final Processing (Administrative Staff or Application Manager)

Administrative staff or the application manager will complete the following tasks upon receipt of the final, signed permit package:

A. Open the permit document in WMS, apply a signature indicator ("/s/") on Page 1, and ensure that the correct effective and expiration dates are on Page 1.

B. Change the Disposition of the final permit cover letter and final permit from "Pending" to "Issued (Mailed)." Ensure there are no documents in the list with a Disposition of "Pending".

C. Issue the authorization in eFACTS.

NOTE – Documents will be changed to a Disposition of "Issued (Mailed)" on the same day as the authorization is issued in eFACTS.

D. Make copies, and mail the copies to the applicant, consultant, PFBC and the regional PFBC law enforcement officer. The final permit cover letter will not be sent via Certified Mail.

E. Transmit the case files to the regional file room.

REFERENCES

25 Pa. Code Chapter 91. General Provisions (pacodeandbulletin.gov)
NPDES Pesticides FAQ.pdf

APPENDICES

APPENDIX 1

Acronyms

Acronym	Name
ACHD	Allegheny County Health Department
BUS7	Land application of exceptional quality biosolids general permit
BUS7O	Land application of exceptional quality biosolids, out-of-state general permit
BUS8	Land application of quality biosolids general permit
BUS8O	Land application of quality biosolids, out-of-state general permit
BUS9	Land application of residential septage general permit
BUS9O	Land application of residential septage, out-of-state general permit
COMPL	Completeness review
CV	Conveyance subfacility
DENC	Application incomplete – denied
DENT	Application technically deficient – denied
DEP	Department of Environmental Protection
DP	Draft permit
DR	Decision review
DRBC	Delaware River Basin Commission
ECHD	Erie County Health Department
eFACTS	Environmental Facility Application Compliance Tracking System
ELEV	Elevated review process
IRSIS	Individual Residential Spray Irrigation System
LR	Lead Reviewer
NCRO	Northcentral Regional Office
NERO	Northeast Regional Office
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NWRO	Northwest Regional Office
O&M	Operation and maintenance
OSBP	Out-of-state biosolids processor

PABGO	Biosolids out-of-state individual generator permit
PABIG	Biosolids individual generator permit
PABIS	Biosolids individual site permit
PAG	Pennsylvania General Permit
PC	Private composter
PF	Primary facility
PH	Public hearing
PS	Pump station subfacility
SCRO	Southcentral Regional Office
SDN	Send deficiency notice
SERO	Southeast Regional Office
SEO	Sewage Enforcement Officer
SF	Subfacility
SN	Sewage Non-Publicly owned
SOP	Standard Operating Procedure
SSN	Site suitability notice
SWRO	Southwest Regional Office
TD	Technical deficiency
USGS	United States Geological Survey
WMS	Water management system
W2CAF	Water Quality Management Part II Manure storage facility
W2IW	Water Quality Management Part II Industrial Waste Treatment Plant
WQ2LA	Water Quality Management Part II Sewerage Treatment Plant Land Application
WQ2PS	Water Quality Management Part II sewer extensions and pump stations
WQ2TP	Water Quality Management Part II sewage treatment facility
WQG01	Water Quality Management general permit for small flow treatment facilities
WQG02	Water Quality Management general permit for sewer extensions and pump stations
WQJ91	Water Quality Management Part II Pesticides permit