



**WATER BUREAU  
POLICY AND PROCEDURES**

<b>NUMBER:</b>	<b>WB-FOPS-001</b>	
<b>SUBJECT:</b>	<b>PART 41 – TIMING OF APPLICATION REVIEWS AND PERMIT DECISIONS</b>	
<b>EFFECTIVE DATE:</b>	<b>DATE</b>	<b>PAGE: 1 OF 7</b>
<b>REVISION DATE:</b>	<b>(5-YEAR REVIEW FREQUENCY)</b>	

**ISSUE:**

Part 13 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), effective September 10, 2004, establishes review requirements and deadlines for various permit and license applications under Act 451. Under Part 13, the reviews are divided into the application period and the processing period. The application period is for the administrative completeness review, and the processing period is for the technical evaluation and final decision. While requirements for the processing vary by the type of permit or license, the application requirements are the same for all permits and licenses.

This policy establishes the application review and permit decision making timeframes for the Part 41, Sewerage Systems, of Act 451, permit program that will comply with Part 13.

**AUTHORITY:**

Part 13 of Act 451 of 1994  
Part 41 of Act 451 of 1994

**DEFINITIONS:**

Application Period means the period beginning when an application for a permit is received by the Department of Environmental Quality (DEQ) and ending when the application is considered to be administratively complete.

Approval means issuance of a Part 41 construction permit.

Incomplete Application means an application determined not administratively complete by Water Bureau (WB) staff within the application period using the most recent Part 41 Administrative Completeness Checklist.

Processing Period means the 150-day time period after the close of the application period (or 180 days if the processing period is extended at the request of the applicant and agreed to by the DEQ).

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**POLICY:**

In accordance with Part 41, Section 324.4105(2), a person shall not construct a sewerage system except as authorized by a construction permit issued by the department pursuant to Part 13.

In accordance with Part 13, Section 324.1305(1), effective 30 days after the state receives an application for a permit, the application shall be considered to be administratively complete unless the department proceeds as provided under subsection (2).

Section 324.1305(2) states, in part, that if, before the expiration of the 30-day period under subsection (1), the department notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, the running of the 30-day period under subsection (1) is tolled until the applicant submits to the department the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

Additionally, in accordance with Part 13, Section 324.1307(1), by the processing deadline (150 days for Part 41 construction permits), the department shall approve or deny an application for a permit. If requested by the permit applicant, the department may extend the processing period for a permit by not more than 20% (in the case of Part 41, 30 days). Approval of an application for a permit may be granted with conditions or modifications necessary to achieve compliance with the part or parts of this act under which the permit is issued.

Section 324.1307(2) states that a denial of an application for a permit shall include an explanation of the reasons for denial and make specific reference to provisions of this act or rules promulgated under this act providing the basis for denial.

In order to comply with the requirements of Part 13, WB staff will use the Part 41 Tracking database to track receipt and processing of applications for construction permits required under Part 41. Administrative completeness and technical reviews will be completed according to the following.

**ADMINISTRATIVE COMPLETENESS REVIEW – Completed Within 30 Days**

Upon receipt of a Part 41 construction permit application, enter project information and received date into the Part 41 Tracking database.

Within 14 days of receipt of a Part 41 application, WB staff will evaluate the application using the current Part 41 Administrative Completeness Checklist and will provide notification of deficiencies for incomplete applications to the applicant and the design engineer by e-mail (recommended) or letter (see attached example of an application incomplete letter). The 30-day review clock stops on the notification date and resumes where it left off on the day a response that adequately addresses the deficiencies is received by the DEQ. A response to a notification of deficiencies shall be evaluated quickly (and always within the remaining days of the application review process) to minimize the potential of exceeding the Part 13 processing period.

Possible scenarios or outcomes for the application period are as follows:

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1. The application is deemed administratively complete within the 30-day period and the DEQ notifies the applicant of the determination. The processing period begins on the date of the administrative completeness determination.
2. The DEQ fails to notify the applicant that the application is incomplete within the 30-day period. The application is deemed administratively complete and the processing period begins on the 31st day.
3. The DEQ notifies the applicant that the application is administratively incomplete on day X (e.g., day 12) within the 30-day application period. The 30-day period is tolled at day X, awaiting a complete response from the applicant. The applicant then submits revisions.
  - A. If the revisions make the application complete, the processing period either begins on the date that the DEQ notifies the applicant that the application is administratively complete if that determination is made within 30-X (e.g., 30-12=18) days of receipt of the revisions, or it begins on the 31st day if the DEQ takes longer than 30-X days to make the notification.
  - B. If the revisions do not make the application administratively complete, then the 30-day period remains tolled on day X; the DEQ does not lose any time within the application period to review an incomplete application.

Under the scenario described in A., an application could be considered automatically complete because of the running of the 30-day application period. This would also automatically begin the processing period. Part 13 does not dictate a specific time frame for DEQ review of information submitted in response to an administratively incomplete determination. However, in order to decrease the potential of exceeding the Part 13 processing period (150 days), DEQ staff should be diligent in reviewing information submitted in response to a determination of administrative incompleteness (in all cases, complete the review within the remaining days of the application review period).

It is important to remember that:

- The application period clock restarts on the date that the DEQ receives the information necessary to make the application complete.
- We don't know whether the specified information needed to complete the application has been submitted until we review it. However, if we determine that the requested information was submitted (making the application complete), then the clock is considered to have started the day when the information was submitted, not the day when we determined it was sufficient to correct deficiencies.
- If we miss the 30-day window, the application is deemed complete. The 150 days processing period starts at the end of the 30-day application period.

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In order to make the review process as efficient as possible, staff are encouraged to use the following approaches in their review and in communications with the applicant:

- Streamline Communications: Use e-mails and phone calls when possible. Avoid writing letters unless necessary to establish a record, or when there are lengthy comments. Schedule a meeting when that is a more efficient method to reach resolution.
- Deny Applications: If an applicant fails to respond timely and appropriately, deny the application. This ends the process and the clock starts at zero if the application is resubmitted. **ONLY** give an applicant a second chance to correct deficiencies when the applicant is making a good attempt to address all deficiencies (i.e., the submitted revisions made substantial progress to address the noted deficiencies).
- Improve Responses Back To Us: Make sure the applicant addresses only the deficiencies and certifies that the rest of the plans/specs are unchanged. This limits our review on the resubmittal (we want to avoid doing a complete review again). If significant changes are made other than to address deficiencies, process it as a new application.

Once an application is determined to administratively complete, staff will enter that date into the Part 41 Tracking database (within 7 days).

If an application is denied, the applicant will be sent denial notification in writing, including an explanation of the reason for denial and making specific references to provisions of the act or rules, and will be advised that plans will be discarded after 30 days. Staff will discard or recycle plans not picked up. An example denial letter is attached.

**TECHNICAL REVIEW – Completed Within 150 Days of Administrative Completeness Date**

In accordance with Part 13, a decision shall be made on an administratively complete application within 150 days. To accomplish this requirement, the following process will be followed:

Complete the technical review and make notification of technical deficiencies and concerns to the applicant and design engineer within the following time frames: 45 days beyond the administratively complete application date for simple projects such as sewer extensions and simple pumping stations, and 90 days beyond the administratively complete application date for complicated projects such as major pumping stations and new or modified treatment facilities. These time frames are established by the WB, and are internal goals in order to provide a timely review to applicants.

If the processing time reaches 120 days and technical design issues remain unaddressed, staff will notify the applicant and design engineer via e-mail or in writing that the permit will be denied if the comments are not addressed within 15 days (note, this will provide only 15 days to complete our review). The attached "120-day technical letter" can be used as guidance in drafting a letter (this letter can be sent via e-mail). The applicant can request a 30-day extension in accordance with Part 13.

Before 150 days (180 days if an extension has been requested), the application must be either approved or denied. If major technical issues remain that cannot be addressed by permit conditions,

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the application must be denied and the applicant so notified in writing, including an explanation of the reason for denial and making specific references to provisions of the act or rules (the attached "Permit denied -150-day letter" can be use as guidance in drafting a letter). This notification will also advise that the plans will be discarded after 30 days. Staff will enter both the decision date and the decision (i.e., "denied") in the database. Staff will discard or recycle plans not picked up.

Once the major technical issues are resolved, the application will be approved (permit issued) and any minor issues may be dealt with as permit conditions. Staff will enter the technically complete and permit issued dates in the database.

### **WITHDRAWING AN APPLICATION**

At any time during the processing of the application, the applicant may decide to withdraw the application. This request should be in writing. Upon receipt of this request, the Part 41 Tracking database shall be updated by changing the "other action" field to "withdrawn," and entering the received date of the letter in the "other action date" field. Comments can be added to the "tracking comments" field to help explain the withdraw action (this is required when a written request was not received from the applicant). When a written request is not the basis for withdrawing the application, a letter shall be sent to the applicant informing him/her of the decision. Otherwise an e-mail can be sent to the applicant confirming the action.

### **OTHER AUTHORIZATIONS AND PERMITS**

If the Part 41 permit is for a project that is dependant upon issuance of a Part 31, Water Resources Protection, of Act 451, permit to authorize a discharge or specify an effluent limit or requirement, then the Part 41 permit shall not be issued prior to issuance of a Part 31 permit. The Part 41 application is administratively incomplete without an issued Part 31 permit.

Part 41 permits should not be withheld for other authorizations or permits (such as construction storm water permits, Land and Water Management Division permits, etc.).

**REFERENCE TO BUREAU PROGRAMS:** Wastewater Facility Permits

**METHOD OF DISTRIBUTION:** Intranet and e-mail, etc.

### **PROCEDURE:**

**Responsibility**  
**District Engineer**

- Action**
1. Tracks all required information in the Part 41 Tracking database in order to show compliance with application review and processing time frames established in Part 13.

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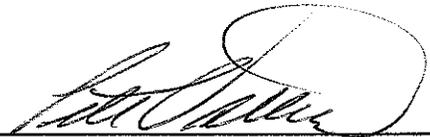
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2. Within 14 days of receipt, reviews the application for administrative completeness using the Part 41 Administrative Completeness Checklist
3. For incomplete applications, notifies the permittee and design engineer of the deficiencies via e-mail or letter, and reviews deficiency responses immediately.
4. If application deficiencies are not resolved timely, send letter to the applicant advising the application was denied and that plans will be recycled if not picked up within 30 days. 'Denied' and the date of denial will be entered in the database for the application.
5. From the date the application is administratively complete, finishes technical review and supplies technical comments to the applicant and design engineer within 45 days for simple projects or 90 days for complicated projects.
6. Tracks processing time using the Part 41 Tracking database. At 120 days notifies applicant that technical comments must be addressed within 15 days or the application will be denied. Denies permit if technical issues remain unresolved at 150 days (except where a 30-day extension was requested by the applicant and agreed to by the DEQ, then use 180 days).
8. When application is technically complete and approvable, issues Part 41 permit.

District Supervisor, Licensed District Engineer, and/or Staff as appropriate.

APPROVED:

  
\_\_\_\_\_  
Peter Ostlund, Chief  
Field Operation Section East-South

DATE: 6-5-08

APPROVED:

  
\_\_\_\_\_  
Carrie Monosmith, Chief  
Field Operation Section West-North

DATE: 6-5-08

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LAST REVIEWED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name  
Title

Application Incomplete Letter  
<DATE>

<NAME OF PERMITTEE>  
<ADDRESS>

Dear <NAME>:

SUBJECT: <PROJECT NAME>  
<PROJECT LOCATION >  
Notice of Incomplete Application for Part 41 Construction Permit

This notice is to advise you that the application for <PROJECT NAME> is administratively **INCOMPLETE**. The items marked below identify the deficiencies that must be addressed and provided before the technical review of the project can continue.

- 1. No proof of proper local review agency approval
- 2. Most recent application form not used
- 3. Owner, contact, project name, location and/or county not properly entered (page 1 of application)
- 4. Facilities Listing not adequate (page 2 of application)
- 5. Not all blanks are completed in General Information, Receiving Sewer Capacity, and Overflows and Basement Flooding (page 3 of application)
- 6. Owners Certification – blanks not completed and/or no original signature (page 4 of application)
- 7. Project Basis of Design information was not provided or was incomplete
- 8. No plans and specifications were submitted with application
- 9. No Professional Engineer's Seal and/or Original Signature on plans and specifications
- 10. No receiving treatment system identified in item 12 (page 3) or no health department authorization for on-site disposal
- 11. Other: \_\_\_\_\_
- 12. Privately owned system – need either resolution with continuity of service documents or established legal entity to own and operate system

If these deficiencies are not resolved within **<30 days or other appropriate time frame given the complexity of the deficiencies>** of the date of this letter, we may deny the application. If more time is necessary, please contact this office and provide justification for an extension. If the application is denied, the permittee may submit a new application for this project.

If you have any questions regarding the notification, please contact me by telephone or e-mail.

Sincerely,

<REVIEW ENGINEER >  
Environmental Engineer  
District Office or Section Name  
Water Bureau  
<PHONE NUMBER>  
<E-MAIL ADDRESS>

cc: <NAME OF DESIGN ENGINEER>

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<DEVELOPER>

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Part 41 Permit Denied - Application Incomplete  
<DATE>

<NAME OF PERMITTEE >  
<ADDRESS>

Dear <NAME>:

SUBJECT: <PROJECT NAME>  
<PROJECT LOCATION>  
Denial of Part 41 Application – Administratively Incomplete Application

This letter is to advise you that the application for this project **HAS BEEN DENIED**. In a <DATE> <E-MAIL/LETTER> you were notified that the application for this project was administratively incomplete. Further, you were advised that the application deficiencies were to be addressed within <# days> of the date of notification. The application deficiencies have not been resolved.

The project plans and specifications will be retained by this office for 30 days beyond the date of this letter. If they are not picked up within this time frame they will be disposed or recycled.

Be advised that a Part 41 permit is required for this project. A new application must be submitted and a Part 41 permit issued before starting construction of this project. Initiation of construction without a Part 41 permit is a violation of law and is punishable by fines and imprisonment.

Please contact this office should you have any questions.

Sincerely,

<REVIEW ENGINEER >  
Environmental Engineer  
District Office or Section Name  
Water Bureau  
<PHONE NUMBER>  
<E-MAIL>

cc: <DESIGN ENGINEER >  
<DEVELOPER>  
<COUNTY DPW>  
<LOCAL HEALTH DEPARTMENT>

120-Day Notice Letter

<DATE>

<NAME OF PERMITTEE >

<ADDRESS>

Dear <NAME>:

SUBJECT: <PROJECT NAME>

<PROJECT LOCATION >

Impending Denial of Part 41 Application – Technical Issues

This letter is to advise you that if the outstanding technical issues for <PROJECT NAME> are not resolved by <150-DAY DATE>, the application will be denied. You were notified on <1st NOTICE DATE> via <E-MAIL/LETTER/PHONE> of the technical issues that needed resolution for this application.

There are statutory limitations for processing applications. Specifically, Section 1301(f)(x) of Act 325 of 2004 establishes the processing period for Part 41 applications as, “. . . 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.” Further, Section 1307(1) requires, “By the processing deadline, the department shall approve or deny an application for a permit. . .” Because the processing period expired, the Department of Environmental Quality had no choice but to deny the application and permit.

Be advised that a Part 41 permit is required for this project. Initiation of construction without a Part 41 permit is a violation of law and is punishable by fines and imprisonment.

Please contact this office should you have any questions.

Sincerely,

<REVIEW ENGINEER>

Environmental Engineer

District Office or Section Name

Water Bureau

<PHONE NUMBER>

<E-MAIL>

cc: <DESIGN ENGINEER>

<DEVELOPER>

<COUNTY DPW>

<LOCAL HEALTH DEPARTMENT>

Part 41 Permit Denied – 150-Day Letter  
<DATE>

<NAME OF PERMITTEE >  
<ADDRESS>

Dear <NAME>:

SUBJECT: <PROJECT NAME>  
<PROJECT LOCATION >  
Denial of Part 41 Application – Technical Issues

This letter is to advise you that the application for <PROJECT NAME> **HAS BEEN DENIED**. You were notified on <1<sup>ST</sup> NOTICE DATE> via <E-MAIL/LETTER> that additional information was needed to complete the technical review of this project. Also, you were advised by <E-MAIL/LETTER> on <120-DAY NOTICE DATE> that technical issues needed resolution within 30 days or the permit would be denied.

There are statutory limitations for processing applications. Specifically, Section 1301(f)(xi) of Act 325 of 2004 establishes the processing period for Part 41 Applications as, “. . . 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.” Further, Section 1307(1) requires, “By the processing deadline, the department shall approve or deny an application for a permit...” Because the processing period expired, the Department of Environmental Quality had no choice but to deny the application and permit.

Be advised that a Part 41 permit is required for this project. A new application must be submitted and a Part 41 permit issued before starting construction of this project. Initiation of construction without a Part 41 permit is a violation of law and is punishable by fines and imprisonment.

The project plans and specifications will be retained by this office for 30 days beyond the date of this letter. If they are not picked up within this time frame they will be disposed or recycled.

Please contact this office should you have any questions.

Sincerely,

<REVIEW ENGINEER>  
Environmental Engineer  
District Office or Section Name  
Water Bureau  
<PHONE NUMBER>  
<E-MAIL>

cc: <DESIGN ENGINEER>  
<DEVELOPER>  
<COUNTY DPW>  
<LOCAL HEALTH DEPARTMENT>

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