

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Policy Office**

**DOCUMENT NUMBER**      012-0900-001

**TITLE:**                      Policy for Development and Publication of Technical Guidance

**EFFECTIVE DATE:**        Upon publication of notice as final in the *Pennsylvania Bulletin*

**AUTHORITY:**              1 Pa. Code Chapter 1.4, Governor’s Executive Order 1996-1

**POLICY:**                    The Department of Environmental Protection (DEP or Department) will follow a Department-wide, standard process for developing, revising, approving, and publishing Technical Guidance Documents (TGDs).

**PURPOSE:**                This policy establishes the standards and procedures for the drafting of TGDs and creates a uniform process for developing, approving, and publishing these documents.

**APPLICABILITY:**        This policy applies to DEP’s non-regulatory documents as identified in Governor’s Executive Order 1996-1.

   This policy does not apply to administrative operating procedures, such as personnel rules, procurement processes, or the administrative handling of contracting.

**DISCLAIMER:**            The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

   The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies 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.

**PAGE LENGTH:**            20 pages

## I. WHEN TO USE THIS DOCUMENT

Technical Guidance Documents (TGDs) provide practical and specialized direction to Program staff, the public, and the regulated community and should be used for the following purposes:

- Summarizing what statutes or regulations require.
- Explaining how the Department interprets a given statute or regulation.
- Explaining technical or administrative procedures that assist in compliance with statutes or regulations.
- Establishing policies

*TGDs are not to be used as a substitute for regulations.* These documents must not mandate actions unless a statute or regulation specifically authorizes the Department to do so.

## II. DEFINITIONS

**Decisions** - Memoranda of Understanding (MOUs) and other interagency agreements, agreements made between DEP bureaus, delegations of authority and policies that establish the direction DEP intends to follow.

**Guidance Manual** - is a comprehensive collection of all internal guidelines relevant to the subject covered as well as sample forms, templates, and other supporting information. The subject tends to be how an entire Program is run; the manual tends to be large. Within this category a “Staff Handbook” or “Desk Manual” is a guidance manual intended for DEP staff and “Public Manual” is a guidance manual intended for members of the public.

**Internal Guidelines** - are DEP’s guidance directed to DEP staff. In comparison to guidance manuals, internal guidelines tend to be brief and tend to deal with one specific aspect of a Program. [Note: The “procedures” portion of “policy and procedures” includes internal guidelines as well.]

**Minor Revision** - is a change to DEP’s guidance that:

- Affects a small portion of the existing guidance without fundamentally altering its content;
- Deals with minor editorial improvements such as revised dates, changes in Departmental staff, updates of old information, clarification of examples, or typographical issues;
- Changes the layout, format, or sequence of information in the existing guidance without affecting its content; or
- Reflects a non-substantive change in the regulatory or statutory parent.

**New Guidance** - is DEP guidance that has not previously existed in any form.

**Non-regulatory Documents** - are internal guidelines, policy statements, guidance manuals, decisions, rules and other written materials that provide directives, guidance or other relevant compliance-related information to the public.

**Policy Statements** - (used as a category on the Governor's List of non-regulatory documents) are any policies that DEP publishes in the *Pennsylvania Code*. In general, these are policy decisions that DEP considers broad in scope and long lasting in duration and wishes to distribute widely. The Policy Statement is the entire document.

**Substantive Revision** - is any other category of change made to guidance that is neither development of new guidance nor a minor revision.

### III. ENHANCING TRANSPARENCY

#### A. NON-REGULATORY AGENDA

The Department will list the non-regulatory documents it plans to amend and/or develop on an annual basis, which it will publish twice a year on or by February 1st and July 1st. This will serve as a guide and resource to the regulated community, the public, Department staff and members of the Department's Advisory Committees regarding the focus of the Department's policy development for the coming year.

#### B. eCOMMENT

In order to increase transparency in the development of technical guidance the Department operates an online public comment system entitled eComment through which the public can submit comments and view comments submitted. The eComment system can be accessed via the DEP website.

### IV. KEY CONSIDERATIONS FOR DEVELOPMENT OF GUIDANCE

DEP will develop its TGDs using the guidelines listed below. If these issues are not clearly addressed in the guidance document transmittal memo as required in Section V, the Policy Office may ask for additional details during the review process.

#### A. NECESSITY

TGDs should be up-to-date and necessary to help implement current laws and regulations. Guidance documents should not be redundant nor impose procedures or requirements that are no longer necessary or effective.

#### B. CLARITY

TGDs should contain clear and concise language and use non-technical language where possible. Guidance documents should provide clear interpretation of agency requirements while reducing the potential for uncertainty and confusion by agency staff, the public, or the regulated community.

C. ADMINISTRATIVE EFFICIENCY

Where appropriate, guidance should streamline applicable Departmental administrative and approval procedures to ensure efficient use of Commonwealth resources.

D. ECONOMIC IMPACTS

TGDs should not diminish Pennsylvania's competitive economic advantage. So long as the environmental and public health standards continue to be met, DEP should provide flexibility to employ cost effective alternatives, encourage innovative technology, and drive economic growth. In addition, DEP should minimize costs associated with staffing, technical reviews, and compliance assistance.

E. CONFORMANCE WITH STATE STATUTES AND REGULATIONS

TGDs may explain statutory or regulatory provisions. Positions taken in guidance must be consistent with statutes and regulations. If the guidance document is based on a specific statute or regulatory provision, that provision should be cited and authority for development of the TGD explicitly stated. The TGD should be used to promote consistency among the regional offices, and district oil and gas and mining offices, to the maximum extent practical.

V. **CONTENTS OF A TECHNICAL GUIDANCE PACKAGE**

Every guidance document routed for approval must contain a transmittal memo, the guidance document itself, draft *Pennsylvania Bulletin* notice, red lined TGD, and Comment-Response document (if necessary). The information required by this section should be included in the transmittal memo, or it may be included as a separate attachment as part of the package. If the below outlined information is not contained in the formal package, this could lead to delays in approval and publication.

A. TRANSMITTAL MEMO

A transmittal memo should be included in every technical guidance package routed for approval and include at a minimum the following information (see Appendix A). Section IV of this document includes the issues that should be considered during the development of all TGDs. In addition to those issues, all memos that transmit TGDs for review should also include an assessment of the considerations listed below.

1. Background: A description of why the guidance is necessary and what it will accomplish or prevent if enacted. Also include the proposed date for publication in the *Pennsylvania Bulletin* as draft or interim final and how long is proposed for a comment period, or anticipated date of publication as final.
2. Type of Change: Indicate whether the included guidance document is either (a) new guidance, (b) substantive revision or (c) minor revision.
3. Summary of Revisions: For memos regarding revisions to existing TGDs or changes made from draft to final Program staff must include a brief description

that clearly identifies what sections of the previous TGD have been changed and the nature of the changes. A copy of the TGD in “redline” format (using the “track changes” feature of the word processing software) should be included for review as well.

4. Relationship to Existing Guidance: Describes how this TGD may affect other guidance within the Program or the agency. Describes whether existing agency guidance will be rescinded or changed.
5. Impact on the Regulated Community: Describes the types of businesses, local government units, or industries potentially affected by the TGD, estimate the number of facilities or sites potentially affected, and how those sites are affected. Include, when possible, the potential operational and economic impacts of technical guidance on the regulated community.
6. DEP Regional staff Input: Describes the process and feedback received from DEP’s Regional and District Offices, including coordination and feedback from the Regional Director identified as the lead for the affected Program (Lead RD).
7. Advisory Committee Input: Program staff has the responsibility of involving Advisory Committees in the development of TGDs. When appropriate, Program staff is encouraged to consult with Advisory Committees as early in the development process as practicable. Memos transmitting Draft TGDs for review should include a description of the Advisory Committee consultation conducted and a summary of results. This is a requirement for new TGDs, substantive revisions to TGDs, and interim final TGDs. Consultation with the Advisory Committees in the instance of Minor Revisions is left to the discretion of the Program Deputy. In instances where Program staff determine that consultation is not applicable or appropriate, a justification outlining those reasons should be included.
8. Coordination with Other State Agencies: Describes the potential impacts on other state agency Programs. The Policy Office will coordinate feedback from the impacted agencies.
9. Potential Opposition to the TGD: Identifies any aspect of a TGD that may potentially draw opposition, explain the reasons for potential opposition.

## B. TECHNICAL GUIDANCE DOCUMENT

All packages routed for approval must contain the Technical Guidance Document in the proper format including the Standard Elements Page (see Appendix B) which includes the following items:

1. Document Number: Number of Guidance Document
2. Title: Title of Guidance Document
3. Effective Date: Effective Date of the Guidance Document

4. Authority: Regulatory and/or statutory parent for Guidance Document
5. Policy Statement: One sentence description of the actions that will be taken as a result of the Guidance.
6. Purpose: Description of the reasons for the development of guidance, and the effect it should have on the operation of the Department. If there is an issue that needs to be addressed so note it. If there is a process that needs to be instituted or altered, so note it. Note why the change is necessary.
7. Applicability: Description of the persons to whom the Guidance applies, and to which processes it is relevant. Note also the circumstances under which the Guidance would be enforced.
8. Disclaimer: Language that must be contained in all guidance documents. For legal reasons, the wording of these paragraphs cannot be changed.

*The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures will affect regulatory requirements.*

*The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give these rules 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.*

9. Page Length: Length of the guidance including all pages of related material including appendices, indexes, graphs, charts, etc.

C. PENNSYLVANIA BULLETIN NOTICE

All TGD packages that are routed shall include a draft *Pennsylvania Bulletin* Notice (See Appendix C) which is to include, at a minimum, the description of the TGD, why it is necessary, outline of any changes, and for final guidance, if it has been revised as a result of public comments. It should also contain information about the open and closing dates of the public comment period and how to submit comments (if applicable).

D. COMMENT-RESPONSE DOCUMENT (if applicable)

All Final TGD packages that are routed should include the Comment-Response document which must include all comments that were received during the formal public comment, a thorough response to each comment and a listing of those individuals and organizations that provided comment. This requirement does not apply to the routing of Draft, Interim Final or Minor Revisions to TGDs as they have not yet held or do not require a comment period.

## VI. PROCEDURES FOR REVIEW AND APPROVAL

In the development of all TGDs, Department staff will follow a standardized procedure to ensure proper internal review and public comment.

### A. NEW GUIDANCE AND SUBSTANTIVE REVISIONS TO EXISTING GUIDANCE

#### 1. Pre-Draft Stage

Prior to preparation of draft guidance, Program staff should request input from regional Program staff, Executive staff including the respective Executive Policy Specialist, Advisory Committees and other interests as appropriate regarding ideas and concepts for inclusion. (Be aware that legal and policy requirements may affect Advisory Committee involvement.)

#### 2. The Draft Stage

- a. Preparation of Draft: A draft of all new guidance and substantive revisions to existing guidance will be prepared to allow internal and external review and comment. If revisions are being made to an existing guidance, the official formatted version of the document should be obtained from Document Management. (Note: Any Department forms included in the TGD may be required to undergo a separate revision/update process with the Bureau of Office Services, Division of Document Management (Document Management).)
- b. Document Number Development: New TGDs should be assigned a Document Number. Document Numbers are a composite of three types of information. The first three digits, in general, correspond to the ICS organizational code for the originating Program area. The second four digits correspond to the type of document. The last three digits are assigned by the Policy Office to ensure that Document Numbers are unique.
- c. Review of the Draft: Draft TGD development should include input from DEP Program staff, Regional staff, Executive staff, Advisory Committees, and other interests as appropriate. *Note: Deputy Secretary, Lead Regional Director, Regulatory Counsel, and the Policy Office must approve draft guidance documents prior to distribution to Advisory Committees or others outside of the Department. At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary's review to formal publication in the Pennsylvania Bulletin to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.*
- d. Format of the Draft: Programs should work with Document Management to ensure proper and consistent formatting of all documents. Document Management will provide the Program with a hard copy of the formatted

guidance to route to Executive staff for approval and place an electronic copy of the formatted guidance in the appropriate Policy Office/Document Management electronic shared folder.

- e. Routing/Approval of Draft: Program staff should forward Draft TGDs from the Bureau Director (BD), through the Deputy Secretary (Deputy), Lead Regional Director (RD) and the Director of the Bureau of Regulatory Counsel (BRC), to the Policy Director. Draft TGD packages should include a transmittal memo, the guidance document, a proposed notice for publication in the *Pennsylvania Bulletin*, and a redline version of the document outlining any changes (see Section V above). Upon commencement of routing, Program staff should email an electronic version of the Bulletin Notice to [RA-epPABulletinNoti@pa.gov](mailto:RA-epPABulletinNoti@pa.gov). Programs may choose to send advance copies to the respective Executive Policy Specialist to expedite the review process, but the Policy Office will not forward the document for publication until the Deputy, Lead RD, BRC and Policy Director have given their approval. Adequate time for these reviews must be planned. *At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary's review to formal publication in the Pennsylvania Bulletin to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.*
- f. Finalizing the Draft for Publication: The Policy Office will return the hard copy of the draft and supporting documentation to the Program, retaining a copy of any changes made during the review/approval process and providing Program staff with the electronic copy of the document to revise. If minor or no edits are needed to the TGD, the Policy Office will submit the Bulletin Notice to the Legislative Reference Bureau (LRB) for publication. If major edits are needed, the Policy Office will retain the Bulletin Notice for submission to LRB after Program staff makes the necessary changes. Program staff will make tracked changes to the draft if necessary and send a revised electronic copy to the Policy Office. Policy staff will verify the revisions, save an electronic copy to the Policy/Document Management shared folder and notify Document Management. Document Management will reformat and publish the draft document on the Department's eLibrary by COB the Thursday before publication in the *Pennsylvania Bulletin*.
- g. Receiving Comments: The Policy Office will accept comments on all draft TGDs for no less than 30 calendar days from the publication of the document's availability in the *Pennsylvania Bulletin* via eComment, email, and mail as described in the *Pennsylvania Bulletin* notice. The Department encourages all comments be submitted electronically using eComment. The Technical Guidance Coordinator will manage receipt of all public comments, and make them publicly available on the DEP website within five business days of receipt. The Coordinator is then responsible for distribution of the comments and a commentator list to the respective Program.



- h. Preparation of the Comment–Response Document: Program staff involved in developing the draft TGD will review comments received and prepare a formal Comment-Response document; comments received after the deadline may be considered, but should not become part of the official Comment-Response document. In this document, Program staff will give a substantive response to every comment, or similar sets of comments, received and identify which commentators made each comment.
- i. Withdrawal: Should a Program decide not to continue developing a TGD after publication as draft (in consultation with the Policy Office), Program staff should draft a *Pennsylvania Bulletin* notice withdrawing the draft. Routing and approval for withdrawal of a TGD follows the process outlined in step e. above.

3. Interim Final TGDs

Program staff in consultation with Policy Office staff will make the determination as to whether a TGD is appropriate to be considered for publication as Interim Final. Interim Final guidance may be used to meet a statutory deadline or other circumstance approved by the Policy Director. Issuing a document as Interim Final allows for use of the draft document by the Department while it accepts public comments. The review process for Interim Final documents is the same as outlined above for draft TGDs with the exception that Interim Final documents are immediately implemented by Department staff upon publication while the comment period and finalization of the document are in process.

- a. Preparation of Interim Final: A draft of all new and substantive revisions to existing guidance will be prepared to allow internal and external review and comment. If revisions are being made to an existing guidance, the official formatted version of the document should be obtained from Document Management. (Note: Any Department forms included in the TGD may be required to undergo a separate revision/update process with Document Management.)
- b. Review of Interim Final: Interim Final TGD development should include input from DEP Program staff, Regional staff, Executive staff, Advisory Committees, and other interests as appropriate. *Note: Deputy Secretary, Lead Regional Director, Regulatory Counsel, and the Policy Office must approve Interim Final guidance documents prior to distribution to Advisory Committees or others outside of the Department. At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary’s review to formal publication in the Pennsylvania Bulletin to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.*
- c. Format of Interim Final: Programs should work with Document Management to ensure proper and consistent formatting of all documents.

Document Management will provide the Program with a hard copy of the formatted guidance to route to Executive staff for approval and place an electronic copy of the formatted guidance in the appropriate Policy Office/Document Management electronic shared folder.

- d. Routing/Approval of Interim Final: Program staff should forward Interim Final TGDs from the BD, through the Deputy, Lead RD and the Director of BRC, to the Policy Director. Interim Final TGD packages should include a transmittal memo, the guidance document, a proposed notice for publication in the *Pennsylvania Bulletin*, a redline version of the document outlining any changes (see Section V above). Upon commencement of routing, Program staff should email an electronic version of the Bulletin Notice to [RA-epPABulletinNoti@pa.gov](mailto:RA-epPABulletinNoti@pa.gov). Programs may choose to send advance copies to the respective Executive Policy Specialist to expedite the review process, but the Policy Office will not forward the document for publication until the Deputy, Lead RD, BRC and Policy Director have given their approval. Adequate time for these reviews must be planned. *At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary's review to formal publication in the Pennsylvania Bulletin to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.*
- e. Finalizing Interim Final for Publication: The Policy Office will return the hard copy of the interim final and supporting documentation to the Program, retaining a copy of any changes made during the review/approval process and providing Program staff with the electronic copy of the document to revise. If minor or no edits are needed to the TGD, the Policy Office will submit the Bulletin Notice to the Legislative Reference Bureau (LRB) for publication. If major edits are needed, the Policy Office will retain the Bulletin Notice for submission to LRB after Program staff makes the necessary changes. Program staff will make tracked changes to the draft if necessary and send a revised electronic copy to the Policy Office. Policy staff will verify the revisions, save an electronic copy to the Policy/Document Management shared folder and notify Document Management. Document Management will reformat and publish the draft document on the Department's eLibrary by COB the Thursday before publication in the *Pennsylvania Bulletin*.
- f. Receiving Comments: The Policy Office will accept comments on all Interim Final TGDs for no less than 30 calendar days from the publication of the document's availability in the *Pennsylvania Bulletin* via eComment, email, and mail as described in the *Pennsylvania Bulletin* notice. The Department encourages all comments be submitted electronically using eComment. The Technical Guidance Coordinator will manage receipt of all public comments, and make them publicly available on the DEP website within five business days of receipt. The Coordinator is then responsible for distribution of the comments and a commentator list to the respective Program.

- g. Preparation of Comment–Response Document: Program staff involved in developing the Interim Final TGD will review comments received and prepare a formal Comment-Response document; comments received after the deadline may be considered, but will not become part of the official Comment-Response document. In this document, Program staff will give a substantive response to every comment, or similar sets of comments, received and identify which commentators made each comment.
- h. Special Procedures for Finalization: If the Department receives comments on any document published as Interim Final, the Program will, within 120 calendar days from the close of the comment period, publish a Comment-Response document and a Final version of the document reflecting any changes made in response to those comments. If no comments are received, the Program will publish a *Pennsylvania Bulletin* notice to that effect and announcing finalization as soon as practicable following the close of the comment period.

4. The Final Stage

- a. Preparation of Final: The Final TGD package should be routed from the Deputy within 120 days of the close of the comment period, unless (in consultation with the Policy Office), it is determined that more time is needed for review of comments. All comments provided during the public comment period should be taken into consideration and edits made as necessary to the final document based on comments received and further consultation with Advisory Committees as appropriate. (Note: Any Department forms included in the TGD may be required to undergo a separate revision/update process with Document Management.)
- b. Review of Final: The Finalization process should include input from DEP Program staff, Regional staff, Executive staff, Advisory Committees, and other interests as appropriate. At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary’s review to formal publication in the *Pennsylvania Bulletin* to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.
- c. Format of Final: Programs should work with Document Management to ensure proper and consistent formatting of all documents. Document Management will provide the Program with a hard copy of the formatted guidance to route to Executive staff for approval and place an electronic copy of the formatted guidance in the appropriate Policy Office/Document Management electronic shared folder.
- d. Routing/Approval of Final: Program staff should forward Final TGDs from the BD, through the Deputy, Lead RD and the Director of BRC, to the Policy Director. Final TGD packages should include a transmittal memo, the guidance document, a proposed notice for publication in the

*Pennsylvania Bulletin*, a redline version of the document outlining any changes from proposed and the Comment-Response document (see Section V above). TGDs should become effective no earlier than the announcement of their final publication in the *Pennsylvania Bulletin*. Program staff may include a target date with their submission, but this will typically be changed to the date of publication in the *Pennsylvania Bulletin*. If the document is intended to become effective on a specific date, the transmittal memo should make it clear that the date should not be changed.

Upon commencement of routing, Program staff should email an electronic version of the Bulletin Notice to [RA-epPABulletinNoti@pa.gov](mailto:RA-epPABulletinNoti@pa.gov). Programs may choose to send advance copies to the respective Executive Policy Specialist to expedite the review process, but the Policy Office will not forward the document for publication until the Deputy, Lead RD, and BRC and Policy Directors have given their approval. Adequate time for these reviews must be planned. *At a minimum, 45-days should be allowed from the conclusion of the Deputy Secretary's review to formal publication in the Pennsylvania Bulletin to allow sufficient time for review and approval. Guidance documents more complex in nature that may require intra and interagency coordination may require additional time.*

- e. Finalizing for Publication: The Policy Office will return the hard copy of the final and supporting documentation to the Program, retaining a copy of any changes made during the review/approval process and providing Program staff with the electronic copy of the document to revise. If minor or no edits are needed to the TGD, the Policy Office will submit the Bulletin Notice to the Legislative Reference Bureau (LRB) for publication. If major edits are needed, the Policy Office will retain the Bulletin Notice for submission to LRB after Program staff makes the necessary changes. Program staff will make tracked changes to the draft if necessary and send a revised electronic copy to the Policy Office. Policy staff will verify the revisions, save an electronic copy to the Policy/Document Management shared folder and notify Document Management. Document Management will reformat and publish the draft document on the Department's eLibrary by COB the Thursday before publication in the *Pennsylvania Bulletin*.
- f. Distribution of the Comment-Response Document: Copies of the Comment-Response document will be made available electronically on the Department's eLibrary along with the Final TGD. A copy of the Comment-Response document will also be distributed to all those who submitted comments. In cases where commentators provide their email address, it is preferable to send the comment and response document by email. Related Advisory Committees should also be made aware of the final publication and be provided copies of the TGD and associated Comment-Response document.

- g. Withdrawal: Draft TGDs that are not published as final within two years following the close of the comment period will be deemed withdrawn. The Technical Guidance Coordinator will provide quarterly listings to Program Deputies outlining pending TGDs. Exceptions to the two year deadline must be approved by the Policy Director.

## B. MINOR REVISIONS TO EXISTING GUIDANCE

Minor revisions to Department TGDs need not be published as a draft, nor must they include a public comment period. It is left to the discretion of Program staff as to whether discussions with related Advisory Committees are necessary.

1. Determination of Minor Revision: The Program's Bureau Director may make the preliminary determination as to whether a change meets the definition of a Minor Revision by consulting this policy with final approval by the Policy Director. The Policy Office TGD Coordinator can provide additional assistance for such a determination if necessary. Once it is determined that a revision to a TGD qualifies as Minor, the Program may forward the changes as Final Guidance following the aforementioned routing procedures—no comment period is necessary.
2. Routing/Approval of Minor Revision: Routing and approval of a minor revision follows the same procedures outlined above for final documents. Programs may choose to send advance copies to the respective Executive Policy Specialist to expedite the review process, but the Policy Office will not forward the document for publication until the Deputy, Lead RD, and BRC and Policy Directors have given their approval. Adequate time for these reviews must be planned.
3. Finalizing for Publication: The Policy Office will return the hard copy of the final and supporting documentation to the Program, retaining a copy of any changes made during the review/approval process and providing Program staff with the electronic copy of the document to revise. If minor or no edits are needed to the TGD, the Policy Office will submit the Bulletin Notice to the Legislative Reference Bureau (LRB) for publication. If major edits are needed, the Policy Office will retain the Bulletin Notice for submission to LRB after Program staff makes the necessary changes. Program staff will make tracked changes to the draft if necessary and send a revised electronic copy to the Policy Office. Policy staff will verify the revisions, save an electronic copy to the Policy/Document Management shared folder and notify Document Management. Document Management will reformat and publish the draft document on the Department's eLibrary by COB the Thursday before publication in the *Pennsylvania Bulletin*.

## C. RESCINDING OR REMOVING TGDS

1. Types of Changes:
  - a. *Rescission*: If a Bureau Director determines a TGD is no longer necessary, it should be rescinded.

- b. *Removal*: A Bureau Director may determine that maintaining a document as Technical Guidance is not the most appropriate format for its public availability. It may, for example, be more useful as a fact sheet or brochure. In these cases, the document should be removed from the Department's official inventory of TGDs.
2. Preparation of the Notice of Intent to Rescind or Remove Technical Guidance: To rescind or remove TGDs, the Bureau Director must prepare a Notice of Intent. Approval and publication of notice in the *Pennsylvania Bulletin* follow the same procedure as Final TGDs.

## **VII. MAINTENANCE AND DISTRIBUTION OF TGDS**

### **A. MAINTENANCE**

The Policy Office Technical Guidance Coordinator will ensure the official copy of every TGD is available through the Department's eLibrary.

### **B. DISTRIBUTION**

Department staff should refer the public to its eLibrary for official copies of TGDs; however, the Program may wish to distribute paper copies of its TGDs to the public. The only version of documents that should be used to do so is the version on the Department's eLibrary.

### **C. ANNUAL PUBLICATION IN THE *PENNSYLVANIA BULLETIN***

Executive Order 1996-1 requires the following procedure concerning non-regulatory documents:

1. The Department must catalog non-regulatory public documents such as internal guidelines, policy statements, guidance manuals, decisions, rules and other written materials that provide directives, guidance, or other relevant compliance related information to the public.
2. The Department will publish a list of the cataloged titles, along with an agency contact and phone number, in the *Pennsylvania Bulletin* on the first Saturday in each August.

## Appendices – General Conventions

For the attached templates found in this section, the following typographic conventions apply:

- *Italic print* contains guidance on how to use or interpret the template.
- CAPITAL LETTERS include subject headings for the templates, which are to be repeated as written in all uses of the template.
- Underlined print includes information that the user of the template will supply as appropriate to their circumstances.
- [Square Brackets] Surround choices or optional information.

**Appendix A  
Transmittal Memo**



**MEMO**

**TO** Director  
Policy Office

**FROM** Bureau Director  
Program

**THROUGH** Deputy Secretary  
Lead Regional Director  
Director, Bureau of Regulatory Counsel

**DATE** [Date]

**RE** [DRAFT, INTERIM FINAL or FINAL] TGD

**MESSAGE:**

DEP ID: Document Number

TITLE: Title of Guidance

PAGE LENGTH: Number of pages, including all appendices, attachments, addenda, titles, indexes, and other associated documents.

TYPE OF CHANGE: [New Guidance, Substantive Revision, or Minor Revision]

**BACKGROUND:** *A description of why the guidance is necessary and what it will accomplish or prevent if enacted. Also include the proposed date for publication in the Pennsylvania Bulletin and proposed length of public comment period. Include any additional supporting information required by sections IV or V.*

**SUMMARY OF REVISIONS:** *For memos regarding revisions to existing TGDs or changes made from draft to final, a brief description that clearly identifies what sections of the previous TGD have been changed and the nature of the changes. A copy of the TGD in “redline” format (using the “track changes” feature of the word processing software) should be included for review as well.*

[**RELATIONSHIP TO EXISTING GUIDANCE DOCUMENTS, IF ANY:** *Existing guidance documents that are related to this guidance, and which must be consulted if this guidance is to be properly implemented. If there are no related documents, this may be omitted.*]



**IMPACT ON REGULATED COMMUNITY:** *Describes the types of businesses, local government units, or industries potentially affected by the TGD, estimate the number of facilities or sites potentially affected, and how those sites are affected. Include, when possible the potential operational and economic impacts of technical guidance on the regulated community.*

**DEP REGIONAL STAFF INPUT:** *Describes the process and feedback received from DEP's Regional and District Offices, including coordination and feedback from the Lead Regional Director on the subject.*

**ADVISORY COMMITTEE INPUT:** *A description of the Advisory Committee consultation conducted and a summary of results. This is a requirement for new, substantive revisions, and interim final TGDs, consultation with the Advisory Committees in the instance of a minor change is left to the discretion of the Program Deputy. In instances where Program staff determine that consultation is not necessary, a justification outlining those reasons should be included.*

**COORDINATION WITH OTHER STATE AGENCIES:** *Describes the potential impacts on other Commonwealth agency programs.*

**POTENTIAL OPPOSITION TO THE TGD:** *Identifies any aspect of a TGD may potentially draw opposition and explain the reasons for potential opposition.*

**Appendix B**  
**Standard Elements Page**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Program Area**

**DOCUMENT NUMBER:**     Number of Guidance Document

**TITLE:**                    Title of Guidance Document

**EFFECTIVE DATE:**        Effective Date of the Guidance Document

**AUTHORITY:**             Regulatory and/or Statutory Parent for Guidance Document

**POLICY:**                 *One-sentence description of the actions that will be taken as a result of this guidance. The information should be blocked as shown here.*

**PURPOSE:**                *Description of the reasons for the development of the guidance, and the effect it should have on the operation of the Department. If there is an issue that needs to be addressed, so note it. If there is a process that needs to be instituted or altered, so note it -- and note why the change is necessary.*

**APPLICABILITY:**         *Description of the persons to whom the guidance applies, and to which processes it is relevant. Note also the circumstances under which the guidance would be in force.*

**DISCLAIMER:**            The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures will affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give these rules 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.

*For legal reasons, the wording of the paragraphs cannot be changed.*

**PAGE LENGTH:**         The length of the guidance, including all pages of related material in appendices, indexes, graphs, charts, etc.

## **Appendix C**

### ***Pennsylvania Bulletin Notice Template***

Notices of Availability of TGDs should be submitted in the format below. The “Written Comments” section should be omitted for final guidance and notices of rescission or withdrawal.

***[Draft or Final] TGD: [New Guidance, Substantive Revision, Minor Revision, Recession, or Revocation]***

**DEP ID:** *xxx-xxx-xxx*

**TITLE:** *Title of Document*

**DESCRIPTION:** *Include a brief description of what the document is for, why it is necessary, what has been changed, and, for final guidance, if it has been revised in response to public comments.*

**[WRITTEN COMMENTS:** Interested persons may submit written comments on this Draft TGD by Date (*at least 30 calendar days after publication*). Comments submitted by facsimile will not be accepted. All comments, including comments submitted by electronic mail must include the originator’s name and address. Commentators are urged to submit comments using the Department’s online eComment for Policies at [www.ahs.dep.pa.gov/eComment](http://www.ahs.dep.pa.gov/eComment). Written comments should be submitted to Technical Guidance Coordinator, Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063, or by email to [ecomment@pa.gov](mailto:ecomment@pa.gov). *This section may be omitted for final guidance and notices of rescission or withdrawal.*]

**CONTACT:** Questions regarding this TGD should be directed to contact name, (xxx) xxx-xxxx or by email to contact email.

**EFFECTIVE DATE:** *For final guidance, this should be the expected publication date. For draft documents, the text: “Upon publication of notice as final in the Pennsylvania Bulletin.” For recessions or revocations, this date should be at least 10 working days after the expected publication date.*

**Appendix D**  
**Notice of Intent to Rescind or Remove Guidance**



**MEMO**

**TO** Director  
Policy Office

**FROM** Bureau Director  
Program

**THROUGH** Deputy Secretary  
Lead Regional Director  
Director, Bureau of Regulatory Counsel

**DATE** [Date]

**RE** Notice of Intent to [Rescind or Remove] TGD

**MESSAGE:**

**TITLE OF TGD:** Title of guidance document.

**TYPE OF CHANGE TO TGD:** [Rescission or Removal of Document from the Inventory]

**CONTACT PERSON:** Name of person charged with development of guidance including telephone number

**BACKGROUND:** *Short paragraph describing why the Bureau is rescinding or removing the guidance; this paragraph should explain the reasons for the rescission and the effect that the rescission will have on the operation of the Program.*

**ANTICIPATED EFFECTIVE DATE:** *This is the date the rescission or removal would go into effect. The effective date for a Notice of Intent to Rescind can be no less than ten working days after the Notice appears in the Pennsylvania Bulletin.*