

NPDES Stormwater Program Changes

The following is a summary of the recent changes, which will be discussed at our training session. Some took us completely by surprise while others (like the Chapter 102 proposed rulemaking) are part of a public participation process that we have been involved with from the beginning.

1. Municipal Notification

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-76213/012-0200-001%20Final.pdf>

The municipal notification procedure, which changed in August, also prompted changes to the GIF (below). There is a new standard letter and new addressees; an NPDES application should not be submitted until 30 days after the municipal notices are sent out unless all municipal responses are received before that. For more information, click on the link above and see pages 4-6 and 13-17. This office is still processing applications that include the old procedure, with the condition that the new procedure is followed prior to permit issuance. Applications submitted in 2010 should follow the new procedure.

2. General Information Form (GIF)

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77799/GIF%20Form.pdf>

This form changes like the wind. It was revised in August as a result of the municipal notification process; the link currently indicates a date of 10/2009. As stated in #1 above, this office is processing applications that include the GIF dated 06/07/2002 (see upper left corner of form), with the condition that the new form is submitted prior to permit issuance. Applications submitted in 2010 should include the new form.

3. NPDES stormwater general permit (PAG-2)

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10687>

The PAG-02, 2009 Amendment of the NPDES general permit took effect on December 8, 2009. The major changes are:

An applicant's authorization will commence on the date of approval of coverage and will be valid for a two year time period. (Note that an applicant may choose to submit an individual permit application for a 5-year permit term.)

Two new conditions for when the PAG-02 may not be used have been added to the permit:

- Discharges to surface waters identified as impaired waters where the proposed discharge will result in a net change (pre-condition to post condition) in volume or rate or water quality of the stormwater. (See http://www.mcconservation.org/downloads/PDFs/Stream_Impairments_List.pdf for impaired waters.)
- Discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless the E&S and PCSM Plans include implementation measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit,

persons must implement conditions applicable to their discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to the discharge, persons must implement necessary steps to meet that allocation. (Currently does not affect Monroe County.)

New requirements have been added for permit modification, termination, or revocation and reissuance.

- The general permit will expire 2 years from the date of its issuance. The department will publish a notice in the *Pennsylvania Bulletin* of the draft, renewed, or reissued general permit or of any amendments to this general permit, and after a comment period notice of the final, renewed, reissued or amended general permit will be published in the *Pennsylvania Bulletin*. Any person with an unexpired approval of coverage under the general permit shall be responsible for complying with the final renewed, reissued or amended general permit. Such persons shall be covered by the general permit even if the discharger has not submitted a separate NOI to be covered by such final renewed, reissued or amended general permit. Such person may request coverage under an individual permit. See 40C.F.R. § 122.28(b)(2)(vi); 25 Pa. Code § 92.81(c) and (d)

A requirement for completion certificates and final plans have been added to Part B.

In Part C under E&S plans two new conditions have been added:

- Upon the installation or stabilization of all perimeter sediment control BMPs and at least 3 days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to the department or authorized conservation district.
- The E&S Plan must be consistent with the assumptions and requirements of any available Wasteload Allocations (WLAs) for the discharges as set forth in any applicable Total Maximum Daily Loads (TMDLs) established for the receiving waters.

Clean Fill requirements have been added under Spoil and Borrow areas.

Phased project guidance has been revised to add a statement that "subsequent phases commenced after termination of the PAG-02, 2009 Amendment, shall be responsible for complying with the final renewed, reissued, or amended general permit."

Infiltration BMP requirements were added in Part C.

Stabilization requirements were revised.

The requirement that earth disturbance may not commence until all related Act 537 Sewage Facilities Planning approvals have been obtained was added.

The permit fee for the NPDES General Permit increased from \$250.00 to \$500.00 effective December 8, 2009.

Based on the revisions to the PAG-02, 2009 Amendment, DEP revised the NOI/application forms and checklists and instructions (see below).

4. Individual NPDES stormwater application/Notice of Intent (NOI)
<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-9432>

Most of the revisions to this application are the result of the new NPDES general permit discussed above. Applicants should begin to use the new NOI effective 12-8-09. However, this office is currently processing applications that include the NOI dated 5/2007 (see upper left corner of form), with the condition that the new form is submitted prior to permit issuance. Applications submitted in 2010 should include the new form.

5. New EPA Rule effective February 1, 2010
<http://www.epa.gov/waterscience/guide/construction>

On December 1, 2009, the U.S. Environmental Protection Agency (EPA) published effluent limitations guidelines (ELGs) and new source performance standards (NSPS) to control the discharge of pollutants from construction sites. Beginning August 1, 2011, construction sites that disturb 20 or more acres *at one time* will be required to conduct monitoring of discharges from the site and comply with a numeric limitation for turbidity of 280 NTU. Construction sites that disturb 10 or more acres *at one time* will be required to conduct monitoring of discharges from the site and comply with the effluent limitation beginning on February 2, 2014.

The Chapter 102 proposed rulemaking and E&S BMP Manual (below) did not address the new EPA rule, and may need to be revised. At this time, we do not know how this rule will be implemented.

6. Chapter 102 regulations (public comment period closed 11/30/09)
<http://www.pabulletin.com/secure/data/vol39/39-35/1610.html>

The proposed changes incorporate specific language which enhance requirements related to agriculture; clarify existing requirements for accelerated E&S control; update permit fees; codify PCSM requirements; add requirements related to riparian forest buffers; and introduce a permit-by-rule option. We will report on the status of the proposed rulemaking at training.

7. E&S BMP Manual (public comment period closed 12/15/09)
<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-76955/363-2134-008.pdf>

The current manual (March 2000) is under 200 pages in length; the new manual is over 500 pages. This document is still a draft, but E&S Plan designers may use it as a resource. Once final, the new BMP Manual will be the subject of its own training session.

8. Riparian Forest Buffer Guidance (public comment period closed 11/24/09)
<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-76604/394-5600-001.pdf>

This guidance was incorporated into the Chapter 102 regulations (above), and was also the subject of public comments as a stand-alone document. We do not know if the public comments on this document will affect the proposed Chapter 102 rulemaking, and vice versa.

9. DEP Website
http://www.depweb.state.pa.us/portal/server.pt/community/dep_home/5968

This website was changed over the holidays. We have not spent much time with it, but found that we missed the e-library, so here's the link: <http://www.elibrary.dep.state.pa.us/dsweb/HomePage>.