

Draft NPDES General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-02)

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On March 9, 2024, the Pennsylvania Department of Environmental Protection (PADEP) announced the availability of its draft National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Stormwater Associated with Construction Activities (draft 2024 General Permit), which would apply to eligible projects proposing earth disturbance greater than or equal to one acre. See 54 Pa. Bull. 1263 (Mar. 9, 2024). PADEP accepted comments on the draft through April 8, 2024. PADEP's draft 2024 General Permit includes significant changes compared to the PAG-02 General Permit currently in effect, set to expire on December 7, 2024 (2019 General Permit). To supplement these changes, PADEP is expected to update the Erosion and Sediment Module 1 and Post-Construction Stormwater Management (PCSM) Module 2 to be consistent with the draft 2024 General Permit upon reissuance.

The 2019 General Permit requires that proof of the recording of an instrument for post-construction stormwater management (PCSM) best management practices (BMPs), now referred to as stormwater control measures (SCMs), be submitted to PADEP or the County Conservation District (CCD) with the Notice of Termination (NOT) or a Transfer Application. The draft 2024 General Permit would require submission of the full recording and proof of the recording to PADEP before a pre-construction meeting is scheduled, as well as upon the submission of the NOT to ensure compliance. The draft 2024 General Permit would also require the use of a standard form to document the completion of each structural PCSM SCM, which must be signed by a licensed professional and submitted to PADEP or CCD within 30 days of completion of each SCM.

The draft 2024 General Permit would require site inspections to be conducted by qualified personnel only, with PADEP providing three options to demonstrate that a person is qualified. Existing permittees would have one year from the effective date of the 2024 General Permit, December 8, 2024, to implement this provision. PADEP's draft 2024 General Permit would also require the submission of an annual report by December 7 of each year. This report would require information on the status of the project. For existing permittees, the draft 2024 General Permit would require a renewed NOI to be submitted by December 7, 2024, to remain covered under the reissued PAG-02 General Permit.

Additionally, the draft 2024 General Permit identified specific types of non-stormwater discharges that would be authorized during earth disturbance activities to be consistent with other PADEP General Permits for stormwater discharges. The U.S. Environmental Protection Agency's (EPA) technology-based standards at 40 C.F.R. pt. 450 are incorporated into the effluent limitation requirements, in addition to two new requirements for construction dewatering water. Discharges would be required to be treated by an approved series of at least two BMPs.

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