

NPDES Permits

A Citizen's Guide to Pennsylvania's National Pollution Discharge Elimination System Permitting Process

A Joint Project of

**The Environmental and Natural Resources Law Clinic at Widener Delaware
Law School and the Mid-Atlantic Environmental Law Center**



MID-ATLANTIC ENVIRONMENTAL LAW CENTER



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NPDES Permits:
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Process

by

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TABLE OF CONTENTS

Purpose of this Guide	4
Key Terms and Definitions	5
NPDES Permit Program	8
<i>The Basics</i>	8
<i>Types of NPDES Permits</i>	12
<i>Effluent Limitations</i>	14
<i>Monitoring Requirements</i>	16
<i>Reporting Requirements</i>	16
How NPDES Permits Get Issued	18
Public Participation	23
<i>Opportunities to Participate</i>	24
<i>How to Participate</i>	27
<i>How to Comment</i>	27
<i>Appeals</i>	29
<i>Citizens Suit</i>	29
<i>Effective Participation</i>	32
Conclusion	39
Bibliography	41
Index	44
Appendix	46

PURPOSE OF THIS GUIDE

Congress set lofty goals for the country when it passed the Clean Water Act in 1972. Part of the Act's original goal was to eliminate the discharge of pollutants into navigable waters by 1985, 33 U.S.C. 1251(a)(1). Forty years ago, only a third of the nation's waters were safe for fishing and swimming. Sewage and industrial wastes flowed largely unregulated into the rivers, lakes, and streams of the United States. One of the Clean Water Act's primary tools for attacking this problem was a system of permits known as the National Pollutant Discharge Elimination System, or "NPDES" Program. This program has been instrumental in reducing these discharges and allowing our waterways to become clean and usable once again: today, fully two-thirds of the nation's surveyed waters are safe for fishing and swimming.

Built into the NPDES permitting process is the opportunity for members of the public to have a say. As you will see below, the NPDES permit program works by requiring that facilities pollute the water must do so pursuant to and in compliance with a NPDES permit. By participating in the process, a member of the public can add his or her thoughts to the body of information the Pennsylvania Department of Environmental Protection must consider when writing and issuing the final permit.

This guide is written to help Pennsylvania citizens participate effectively in the NPDES permitting process. It is designed to help you understand the NPDES permitting process, and to give you the tools to help you effectively participate in that process.

KEY TERMS AND DEFINITIONS

Clean Water Act	The federal law that regulates the discharge of pollutants into water from a point source into a navigable water, 33 U.S.C. §§ 1251 <i>et seq.</i>
Clean Streams Law	The Pennsylvania state law, passed in 1937, that regulates discharges into the waters of the Commonwealth, 35 P.S. §§ 691.1 <i>et seq.</i>
Comment and Response Document	A document issued by the Department of Environmental Protection that summarizes and responds to all of the comments made during the public comment period, 25 Pa. Code § 92a.86
Effluent Limitation	As defined in the Clean Water Act, “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance,” 33 U.S.C § 1362(11)
Discharge Monitoring Report	A mandatory monthly report of a facility’s effluent discharge samples to ensure that it is in compliance with its NPDES permit, 40 C.F.R. § 122.48, 25 Pa. Code § 92a.61
Draft Permit	A draft of a NPDES permit that is published in the <i>Pennsylvania Bulletin</i> for public comment prior to permit finalization, 25 Pa. Code § 92a.82(b)
Environmental Protection Agency (EPA)	The federal agency that regulates pollutants under the Clean Water Act, issues and enforces NPDES permits, and delegates permitting authority to the states

Final Permit	The final version of a facility’s NPDES permit that it is required to comply with under the federal Clean Water Act and state Clean Streams Law, 25 Pa. Code § 92a.86
National Pollution Discharge Elimination System (“NPDES”) Permit	A permit that regulates the discharge of pollutants from a point source into navigable waters, 33 U.S.C.A. § 1342.
Pennsylvania Department of Environmental Protection (DEP)	The state agency that has been delegated authority by the EPA to regulate pollutants under the Clean Water Act and issue and enforce NPDES permits
Permit Application	A NPDES permit application that must be submitted by any point source that wishes to discharge pollutants into a navigable water, 40 C.F.R. § 122.21, 25 Pa. Code § 92a.21
Point Source	As defined by the Clean Water Act, “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture,” 33 U.S.C § 1362(14)
Pollutant	As defined by the Clean Water Act, “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located,” 33 U.S.C § 1362(6).

Public Comment Period

A 30-day (extendable by 15 days under certain circumstances) public comment period during which the DEP accepts written comments from the public on a permit action, 25 Pa. Code § 92a.82(d)

Violation

An exceedance of a permit holder's effluent limitations or a failure of a permittee to comply with monitoring and reporting requirements specified in the permit, 33 U.S.C.A. § 1319

NPDES PERMIT PROGRAM

THE BASICS

Section 301 of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of a pollutant from a point source into navigable waters, “[e]xcept as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of [the Clean Water Act].” Thus, if a discharge from a point source is not in compliance with at least one of these sections, it violates the Clean Water Act and the person discharging the pollutant is liable for that violation. The exception at 33 U.S.C. § 1342 -- Section 402 of the Clean Water Act — is the focus of this guide.

Section 402 creates the National Pollutant Discharge Elimination System (“NPDES”) permit program. A person whose discharge complies with the terms of an NPDES permit falls within the exception of Section 301 (and thus does not violate the Act), while a person whose discharge fails to comply with the terms of a NPDES permit falls outside the exception in Section 301 (and thus violates the Act). As a result, the NPDES permit program is central to determining whether discharges which are or should be subject to a NPDES permit are in compliance with the Act.

The Clean Water Act authorizes the Environmental Protection Agency (“EPA”) to administer the NPDES program. However, the EPA has delegated this authority to many of the states’ environmental protection agencies, as required by 33 U.S.C . 1342(b), including the Pennsylvania Department of Environmental Protection (“DEP” or “Department” or “agency”). The EPA can still take action against a facility that is in violation of its NPDES permit, even if the state has been delegated the authority to administer the program. Additionally, if the EPA finds that the state’s administration of the Clean Water Act is inadequate, it can remove the state’s authority through de-delegation.

The EPA has issued regulations, contained in 40 C.F.R. §124 *et seq.*, that apply to state NPDES programs. These regulations represent the minimum protections the state must provide; however, each state is free to adopt more protective standards should it deem them appropriate. Pennsylvania’s corresponding NPDES procedure is contained 25 Pa. Code §§ 92a *et seq.* Many of the federal provisions are incorporated into the state law by reference.

In Pennsylvania, the General Assembly has enacted the Clean Streams Law Act of 1937, P.L. 1987, No. 394, 35 P.S. §§ 691.9 *et seq.*, which serves as a parallel state law to the Clean Water Act. Similar to the NPDES requirements, the CSL empowers DEP and the courts to enforce its provisions, requires permitting of discharges, and requires basic notice and comment procedures before such permits are issued. Because the federal

NPDES program considerably overlaps Pennsylvania's Clean Streams Law, the law's application is largely relegated to DEP Water Quality Management permits discharges to groundwater, which is not regulated under the NPDES program.

NPDES permits regulate the discharge of pollutants from a point source into a navigable water. The permits last for five years and the facility must apply for renewal of the permit at least 180 days before the expiration of its current permit. The primary pollution control mechanisms in the NPDES program are called the effluent limitation standards (sometimes referred to as "permit limits"), which limit the amount of each pollutant a point source may discharge. NPDES permits also contain monitoring and reporting requirements.

The state regulations are available at:

<http://www.pacode.com/secure/data/025/chapter92a/chap92atoc.html>

Definitions

There are a lot of terms used within the NPDES permit program that are defined by the Clean Water Act. Here are some of the major terms you need to be familiar with:

Discharge: "(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." 33 U.S.C § 1362(12).

Point Source: "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture." 33 U.S.C § 1362(14).

Navigable Water: "waters of the United States, including the territorial seas." 33 U.S.C § 1362(7).

Pollutant: "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces" within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to

facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.” 33 U.S.C § 1362(6).

Effluent Limitation: “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance” 33 U.S.C § 1362(11).

The definition of each term is not as straight forward as one would think. For example: What is a discernible, confined and discrete conveyance? And are not all waters considered a water of the United States? The federal courts have, over many cases, discussed the meaning of these terms and are still wrestling with what Congress meant by each.

The first of these definitional puzzles involves “discharge of a pollutant”—which under § 301 is illegal unless a statutory exception (like the NPDES permits in § 402) applies. At first glance, this language suggests that *any* discharge qualifies. However, the definition of “discharge” listed above indicates that it only applies to an addition of a pollutant “from any point source.” For example, discharge from a “point source” does not normally include runoff, which is traditionally considered what is called non-point source pollution. However, “once channeled or collected,” surface runoff “constitutes a discharge by a ‘point source.’” *O’Leary v. Meyer’s Landfill, Inc.*, 523 F.Supp.642, 655 (E.D. Pa 1981).

Another of these definitional puzzles involves “waters of the United States.” Not every water body qualifies. For example, the Supreme Court in *Rapanos v. United States*, 547 U.S. 715 (2006), held that wetlands must have “a continuous surface connection” to “relatively permanent, standing or continuously flowing bodies of water” connected to “traditional interstate navigable waters” or have a “significant nexus between the wetlands in question and navigable waters in the traditional sense . . . ” in order to be a “water of the United States.”

In some cases, federal agencies have promulgated regulations to clarify the definitions under the Clean Water Act. However, these regulations often still leave room for interpretation by the courts. For example, the Army Corp of Engineers and the EPA have defined “waters of the United States to include, “All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.”

- ❖ “All interstate waters including interstate wetlands”
- ❖ “All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce. . . .”
- ❖ “Tributaries of [the foregoing waters]”
- ❖ “Wetlands adjacent to [the foregoing waters]”

However, in 2014, the EPA released a new proposed rule to define “waters of the United States. This rule has not yet been finalized as the date of this publication.

The important thing to remember is this basic idea: a facility must have a permit before sending harmful materials into the water via a point source, or it will be in violation of both federal and state law and subject to an enforcement action.

The Clean Streams Law also defines terms that are important to NPDES permits:

Pollution: “shall be construed to mean contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined” 25 Pa. Code 91.1.

Waters of the Commonwealth: “shall be construed to include any and all rivers, streams, reeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth” 25 Pa. Code 91.1.

As you can see, Pennsylvania’s Clean Streams Law’s definition of “pollution” is broader than the “pollutant” definition in the Clean Water Act. Pennsylvania Courts have interpreted pollution as only those “substances that cause harm to the *uses* of the waters

of the commonwealth.” *People United to Save Homes v. Dep’t of Env’tl. Protection*, 789 A.2d 319, (Pa. Commw. Ct. 2001) (emphasis added). The Clean Streams law has also defined a “water of the Commonwealth,” instead of leaving it to the courts to define.

Regulated Pollutants

As noted, “pollutant” under the Clean Water Act not only encompasses those toxic chemicals and garbage that one would associate with the term, but also heat, rock, sand, and dirt. Which pollutants are regulated in each permit depends on the point source that holds the permit. Each point source’s discharge is its own mixture of different chemicals, metals, and debris, and the impacts from that discharge might vary depending on the water into which it is discharging. For example, a discharge of heated water into a small stream that is designated as a Cold Water Fishery can have serious impacts on the fish in that stream, while the same amount of heated water discharged into a large river like the Susquehanna might not. Each permit will have a list of pollutants that are regulated and monitored for each outflow of pollutants from the facility. Some of the most common regulated pollutants are: *Total Suspended Solids, Chlorine, pH, Temperature, Metals, Fecal Coliform (E.coli), Nitrogen, Phosphorus, Dissolved Oxygen, and Biochemical Oxygen Demand.*

TYPES OF PERMITS

General Permits

State agencies draft general permits that apply to all facilities in a specific industry or that apply specific activities, such as stormwater discharges during construction activities on less than 1 acre of land. General permits are used when the agency has determined that, due to the nature of the type of facility or activity, standard effluent limitations, monitoring, and reporting requirements are adequate for each applicant instead of consideration of unique requirements for each application.

Individual Permits

If a facility or activity does not fall into one of these general categories, or if the discharge from the facility is going into what are called “special protection watersheds” (that is, waters that the DEP has designated as “high quality” or “exceptional value” as listed in 25 Pa. Code § 93.9), it must apply for an individual permit. These are designed specifically for each facility and have effluent limitations, monitoring, and reporting requirements tailored to the applicant.

Pennsylvania General NPDES Permits

- PAG-03 Discharges of Stormwater Associated with Industrial Activities
- PAG-04 Discharges from Small Flow Sewage Treatment Facilities
- PAG-05 Discharges from Petroleum Contaminated Groundwater Systems
- PAG-06 Discharges from Combined Sewer Systems
- PAG-07 Beneficial Use of Exceptional Quality Biosolids
- PAG-08 Beneficial Use of Biosolids
- PAG-09 Beneficial Use of Residential Septage
- PAG-10 Discharges from Hydrostatic Testing of Tanks and Pipelines
- PAG-11 Discharges from Aquatic Animal Production Facilities
- PAG-12 Concentrated Animal Feeding Operations
- PAG-13 Discharges from Small Municipal Separate Storm Sewer Systems
- PAG-15 Discharges from the Application of Pesticides

Pennsylvania Individual NPDES Permits

- Small Flow Sewage Facilities
- Minor Sewage Facilities
- Major Sewage Facilities
- Discharges of Industrial Wastewater
- Application of Pesticides
- Small Municipal Separate Storm Sewer Systems
- Concentrated Animal Feeding Operations
- Generator and Site Permit for Beneficial Use of Biosolids
- Facilities that Discharge into Special Protection Watersheds

There are opportunities for public involvement when DEP decides whether to issue a new permit. This is the case for both an individual permit and a general permit, and the procedures for each are all but identical to each other. See Appendix pg. iv for an example of an Individual NPDES Permit.

Major and Minor Permits

Facilities are broken up into two main categories: major facilities and minor facilities. Under the Clean Streams Law, 25 Pa. Code § 92a.2, a “major facility” is a POTW (publically owned treatment works) with a design flow of 1.0 MGD (million gallons per day) and any other facility that the Department and Administrator determine to be classified as major. Currently, there are no additional major facility designations. A minor facility is simply one that is not considered a major facility. The designation of the categories has the most effect on fees under the permit program. In either case — whether the facility is designated as a major facility or a minor facility on its permit — a discharge by a facility in violation of a permit under which it operates constitutes a violation.

A Special Case: Nutrient Trading in the Chesapeake Bay Watershed

Pennsylvania has a nutrient trading system that allows facilities to use Credits and offsets ... to meet legal requirements for “restoration, protection and maintenance of the water quality of the Chesapeake Bay,” 25 Pa. Code § 96.8(b)(1). Credits are generated through pollutant reduction activity. Currently, Nitrogen, Phosphorus and sediment are the only pollutants that qualify for nutrient trading and only in facilities within the Chesapeake Bay Watershed.

For the full regulations, 25 Pa. Code § 96.8, see:
<http://www.pacode.com/secure/data/025/chapter96/s96.8.html>.

EFFLUENT LIMITATIONS

One of the major pieces of a NPDES permit are effluent limitations, also known as parameters. Effluent limitations are quantitative limits on how much of a particular pollutant a point source can discharge. These limitations are specified in each NPDES permit. Effluent limitations come in two forms: water quality based limitations or technology based limitations.

Water Quality Standards

Each state must create water quality standards for the state’s waterways. Standards must be reviewed every two years. In order to create these standards, a state must first designate a waters “use” (Below is a list of all use designations in Pennsylvania, 25 Pa. Code § 93.3). The use designation given to the water forms the basis upon which the DEP develops its water quality criteria. Once the DEP has

designated a use for a water it may determine that the waterway is “impaired,” or more polluted than DEP thinks is proper for that use. When the DEP finds that a water is impaired by a pollutant or pollutants it calculates the Total Maximum Daily Load (“TMDL”) of each pollutant the waterway can handle while maintaining, or returning to,

levels appropriate to its use. The TMDL is then divided such that the DEP can inform each facility discharging into that water the maximum amount of each pollutant it can discharge.

Pennsylvania Use Designations

<u>Aquatic Life</u>		<u>Recreation and Fish Consumption</u>	
CWF	<i>Cold Water Fishes</i>	B	<i>Boating</i>
WWF	<i>Warm Water Fishes</i>	F	<i>Fishing</i>
TSF	<i>Trout Stocking</i>	WC	<i>Water Contact Sports</i>
		E	<i>Esthetics</i>
<u>Water Supply</u>		<u>Special Protection</u>	
PWS	<i>Potable Water Supply</i>	HQ	<i>High Quality Waters</i>
IWS	<i>Industrial Water Supply</i>	EV	<i>Exceptional Value Waters</i>
LWS	<i>Livestock water Supply</i>	<u>Other</u>	
		N	<i>Navigation</i>

Technology Based Limitations

A Technology-Based Limitation sets a particular quantity – expressed either as a mass (pounds or kilograms per day) or a concentration (an amount per quantity of water, 10 milligrams per liter, for example). Technology Based Standards require a minimum amount of treatment of pollutants. These standards use available control technologies to minimize the amount of pollutant that is discharged. Facilities have discretion to use any technologies to meet the limit.

Anti-degradation Analysis

A water’s use designation is also important for the DEP’s anti-degradation analysis. The Clean Water Act has an anti-degradation policy to ensure that the quality of our water ways only improves and does not degrade any further. The anti-degradation policy requires the maintenance and protection of the existing uses and water quality conditions.

Anti-Backsliding Provision

The Clean Water Act contains an anti-backsliding provision, 33 U.S.C. § 1342(o), which prohibits, with a few exceptions, a permit to have less stringent effluent limitations than the previous permit. Therefore, a facility should not be allowed to discharge more than it did in the past.

Under the Clean Water Act, Pennsylvania must have a state anti-degradation policy and implement such policy through water quality management practices, 40 CFR 131.12. Pursuant to Pennsylvania regulations, 25 Pa. Code § 93a.4c, the DEP must ensure that new and modified permits protect the existing use of a waterway. Additional anti-degradation analysis is required for high quality and exceptional value waters. If a point source plans to discharge into high quality or exceptional value waters, it must follow a three-part analysis that includes consideration of non-discharge alternatives, use of the best available combination of control technologies, and assurance that water quality will not degrade. 25 Pa. Code § 93.4a. The DEP must be mindful of this policy when it drafts NPDES permits for new and modified sources.

MONITORING REQUIREMENTS

All facilities are required to monitor their discharges. Below is an example of standard language for monitoring requirements in a NPDES permit:

“Samples and measurements taken for the purposes of monitoring shall be representative of the monitored activity.”... “[A]ll records of monitoring activities and results (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records), copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee for 3 years from the date of the sample measurement, report, or application.”

Each effluent limitation must be monitored and reported to ensure that the facility's discharge is within the limits of its permits. Often, the data must only be reported and no limitation is established. However, for the effluent limitations that do exist, reported sampling values must be within the parameters of the facility's permit or they are violating their NPDES permit, the Clean Water Act and Clean Streams Law.

REPORTING REQUIREMENTS

Once the facility has its discharge sampling results, it must report the data to the DEP. Facilities must complete “Discharge Monitoring Reports,” also known as DMRs, and submit them to the DEP every month, as illustrated by this standard language from an NPDES permit -- “[A] properly completed DMR must be received by the following addresses within 28 days after the end of each monthly report period...”). DMRs consist of the sampling data collected by the facility as required by its NPDES permit.

In Pennsylvania, DMRs are available to the public online at the DEP's website: <http://www.depweb.state.pa.us/portal/server.pt/community/edmr/17879>. You are able

to narrow your search by date, permit number, county, municipality, client, and parameter. The DEP has given detailed instructions on how to use the site. This is an excellent way to monitor a facility's compliance with its NPDES permit. Additionally, you can track whether a facility is actually reporting its discharges. Failure to correctly monitor and report is also a violation of the NPDES permit and is actionable by either the DEP or interested citizens. See Appendix pg. xlv for step-by-step instructions on how to use the eDMR website.

HOW NPDES PERMITS GET ISSUED

Application

The first step for an individual who wishes to discharge from a point source in Pennsylvania is to apply to do so under one of two NPDES permits: a general permit or an individual permit. Under 25 Pa. Code § 92a.82(a) notice of the completed app will be published in the *Pennsylvania Bulletin*. Renewal applications must be filed at least 180 days prior to the expiration of the current permit, under 25 Pa. Code § 77.143.

Draft Permit and Public Comment Period

After the Application is deemed to be complete by the DEP, the agency will begin to create a Draft Permit for the discharger, which is the second step in the permitting process. When the DEP has prepared a new draft permit — either the initial draft, or a draft after a major revision to the permit — it posts public notice in the *Pennsylvania Bulletin* (as well as on the facility itself and on applicant premises) under 25 Pa. Code § 92a.82(b). This begins the 30-day (extendable by 15 days under certain circumstances) public comment period under § 92a.82(d), during which the DEP accepts written comments from the public.

Fact Sheets

Pursuant to 25 Pa. Code § 92a.53, the Fact Sheet will include: (1) A brief description of the type of facility or activity being permitted; (2) The type and quantity of wastewater or pollutants evaluated in the permit; (3) Documentation that the applicable effluent limitations and standards are considered in development of the draft permit; (4) Documentation that application water quality standards will not be violated; and (5) A brief summary of the basis for the draft permit limitations and conditions including references to applicable legal provisions. See Appendix pg. xxvi for an example of a General Permit Fact Sheet

The DEP will also prepare a *fact sheet* listing information about the draft permit and the bases on which the Department developed the draft permit guidelines. The notice of the draft permit will include the address and telephone number of the office where you can get a copy of the *fact sheet*. Requesting a *fact sheet* will also result in you receiving later versions of the *fact sheet* that will be available in the likely event that the information it contains is updated before final action, as well as notice by mail of any public hearing that may be scheduled on the permit. 25 Pa. Code § 92a.83.

Public Hearings

Under § 92a.82(d) during the public comment period you and any group or organization of persons may “request or petition for a public hearing,” which the DEP will hold if it finds “significant public interest.” The public hearing, if there is one, is an opportunity to make your comments stand out by putting a face and a voice — ideally, several faces and voices — to your message. Public hearings are formal and structured. These hearings give the public an opportunity to present oral and/or written comments for the record.

Public Information Meetings and Informal Meetings

Public information meetings and informal conferences are public participation tools of the DEP which are similar to public hearings, but are not on the record, involve fewer people, and may be less structured than a public hearing (although there is no single set format). The purpose is to allow interested parties to talk with the Department and the permit applicant about the impacts of the permit. These meetings are generally agreed upon voluntarily in conferences between a permit applicant and the DEP very early in the permitting process (frequency before the application is filed, let alone complete). Invitations may be very limited and private, or published generally. These informal meetings do not fulfill any formal public participation requirement for permit issuance.

Final Permit

The third and last step (if there is no appeal) is DEP final action, which in this case is issuance or denial of the permit. After the comment period and public hearing, if any, the agency will make any necessary changes to the permit and either take final action, if the changes are relatively minor, or, if the changes are major, produce another draft and hold another comment period, essentially returning to step two. If the agency takes final action, comments received will be available for review, and notice of final action will be published in the *Pennsylvania Bulletin*. If there is no appeal, this is the end of the process, and the permit goes into effect.

Comment and Response Document

After the DEP makes its permit decision, it will publish a Comment and Response Document that will respond to all of the comments made during the public comment period. This document is available to the public. Additionally, if you made a comment,

you will either be mailed a copy or noticed of an electronic posting. You can use this document to help you with appealing an agency decision.

Appeals of DEP Actions

When the DEP makes its permit decision, you may not agree with the result and you may wish to appeal the decision. Your appeal may be on the facts or legal aspects of the permit decision, but in either case must be clear and specific.

Appeals of DEP final actions on NPDES permits are made to the Environmental Hearing Board (“EHB”). In the case *Borough of Kutztown v. DEP*, the EHB interpreted “final actions” by the DEP to include letters and other written communication that require some specific action by the recipient. This means that an issuance or denial letter by the DEP is a final action that may be appealed by an aggrieved party. A DEP final action is the only issue the EHB has power to adjudicate. The decision to issue a NPDES permit is a final decision that creates an opportunity for appeal.

A *Notice of Appeal* must generally be filed within thirty days. If the DEP publishes notice of the decision in the *Pennsylvania Bulletin*, the 30 days will run from the date of publication. If there is no publication in the *Pennsylvania Bulletin*, then the 30 days runs from when the appellant has knowledge that the DEP has acted. Failure to have the Notice of Appeal reach the EHB within the 30 days will result in dismissal of the appeal. The Notice of Appeal form is available for download at the EHB’s website: <http://ehb.courtapps.com/public/forms.php>

The EHB’s review on appeal is *de novo* -- meaning that it takes a fresh view of the law and the facts of the case, and may therefore substitute its own judgments and make its own conclusions without any requirement to adopt those of the DEP. As a result, the person filing the appeal, the permit recipient, and the DEP may present new or additional evidence to the EHB that was not presented to the DEP. The procedure for appeal is found at 25 Pa. Code §§ 1021.1 *et seq.*

Notice of Appeal alone does not prevent a permit issued by the DEP from going into effect. In order to enjoin a facility from operating under a newly issued NPDES permit the appellant must file a “supercedeas petition,” pursuant to 35 P.S. § 7514, so called because it requests the EHB to “supersede” the DEP’s permit. The regulations for supercedeas in Pennsylvania are found in 25 Pa. Code §§ 1021.61-64. The EHB will only take this action if it finds the harm of allowing the permit to take effect outweighs the harm of blocking the permit. The appealing party has the burden of proof in permit denials and third party appeals (such as a citizen appealing the issuance of a permit), 25 Pa. Code § 1021.122. This means that whoever is challenging the DEP’s issuance or denial of an NPDES permit has the job, or “burden,” of gathering evidence and

presenting it to the EHB in a way that will convince the EHB that the DEP's decision was wrong and should either be overturned or sent back to the DEP.

Standing to Appeal a DEP Action

In order to appeal a permit decision to the EHB you must show that you have suffered a "harm" or "injury" as a result of the decision. This is known as "standing" to appeal the decision. To establish standing you must show that you have been "aggrieved;" that your injury "is substantial, direct and immediate," *Browning-Ferris Indus., Inc. v. Dep't of Env'tl. Protection*, 819 A.2d 148, 152 (Pa. Commw. Ct. 2003).

The EHB has defined each of those standing requirements, or "elements," in the case of *Matthews Int'l Corp. v. Commonwealth of Pennsylvania, Dep't of Env'tl. Protection, and Granite Resources Corp., Permittee*, 2011 WL 4943776, at *2-3.

- ❖ "Substantial:"
 - Harm: The harm to the appellant must be substantial, or greater than that suffered by the majority of the population, that there is a direct connection between the appealed action and the harm suffered by the appellant.
 - Interest: The appellant's interest must be substantial. The interest in the appeal must be particular to the plaintiff or plaintiffs, and not shared among the population equally.
- ❖ "Direct:" The appellant must show that the harm was caused by the adverse decision without intervention by another cause. The action must be the actual, and not round-about, cause of the problem complained of.
- ❖ "Immediate:" The cause of the harm must be closely linked to the harm itself; there must not be much in between the cause and effect.

Appeals of EHB Decisions to Commonwealth Court

EHB final decisions may be appealed to the Commonwealth Court, which is a Pennsylvania court of law unlike the EHB which handles administrative adjudications. Appeals to Commonwealth Court must be filed within thirty days of the EHB's decision. Unlike the appeal of the DEP's decision, the issues raised in an appeal of the EHB's decision to the Commonwealth Court are limited to those raised before the EHB and evidence is strictly limited to the record certified by the EHB. A stay of the EHB's

decision, which like supercedeas above will prevent that decision from becoming effective pending review, must be requested by motion to the EHB.

A Note About Renewal Permits

Many permits are “administratively continued” by the DEP beyond their expiration date. This means that if an applicant submits a complete renewal application at least 180 days prior to the expiration of its current permit, its current permit will remain effective while DEP reviews and issues the renewal permit. The Pennsylvania DEP, along with environmental agencies all over the country, have a significant backlog of renewal NPDES permit applications.

In 2012, then-Governor Tom Corbett signed an Executive Order requiring the DEP to implement the Permit Decision Guarantee Policy, which is intended to reduce the delay in permit processing. The DEP established standard review and processing times for all permits issued by the agency. The first priority for the DEP are permits are new permits. Those permits that require amendments or modifications are the second priority for the DEP, with renewals permits lower on the list. As a result, a number of facilities are operating with permits that are up to ten or twelve years old. This problem emphasizes the importance of citizens taking a role in the NPDES permitting process.

For the full Permit Decision Guarantee policy, see:

http://files.dep.state.pa.us/ProgramIntegration/PermitDecisionGuaranteePortalFiles/021-2100-001_PRP_and_PDG_Policy.pdf

PUBLIC PARTICIPATION

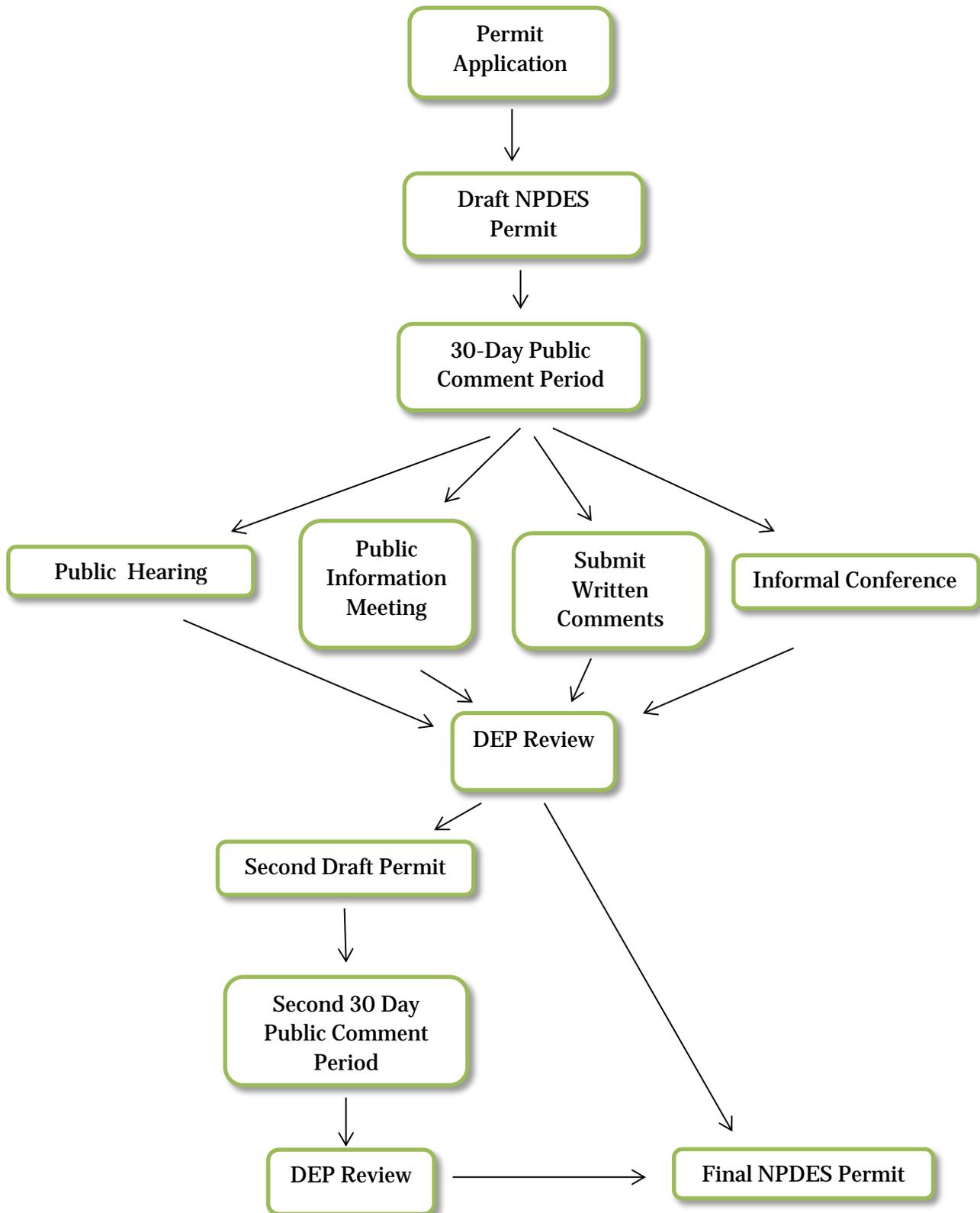
In the first section of the Clean Water Act, Congress specifically called for the public to participate in the decision-making process:

“Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be *provided for, encouraged, and assisted by* the Administrator and the States.” 33 U.S.C. § 1251(e) (emphasis added).

With all of the laws, regulations, and permits regulating the quality of our water, government agencies are only able to accomplish so much monitoring and enforcement. Whether citizens comment on regulations, monitor compliance with permit provisions, or bring suit against violating facilities, the role of the public is essential to the preservation and enhancement of our environment.

Each person who seeks to participate in the decision-making process does so for his or her own reasons. You may want to stop or delay a permit; ensure that a permit meets minimum legal standards; ensure that issuance or denial of a permit is consistent with the department’s mission or policies; confirm that any compliance issues that the facility had in the past are addressed in the new permit, or any other reason that is important to you or your group or organization. If, in the final decision, one of those things does not happen in response to your initial involvement with the process, and you think it should have, then you may have grounds for appealing the DEP’s decision.

OPPORTUNITIES TO PARTICIPATE



Permit Application

The best time to influence a permit is when it is in its earliest stages -- after the application is submitted, but before the DEP issues a draft permit. Public notice of a completed application for an individual NPDES permit will appear in the *Pennsylvania Bulletin*, 25 Pa. Code § 92a.82(a), and information and copies of the application are available upon request, § 92a.82(a)(4). The *Pennsylvania Bulletin*, “the Commonwealth's official gazette for information and rulemaking,” contains the latest information about many agency actions within the Commonwealth and is available starting each Friday morning at 9am, when it officially becomes public. It is available online at: <http://www.pabulletin.com/index.asp>. Other forms of notice may be required as well, depending on the type of pollutant being discharged by the applicant.

The public comment period does not officially begin until there is a draft permit, but you should begin preparing to comment when the applicant first files — it may be as few as 180 days from that point before the applicant will be operating under this permit. You may be able to request copies of applications, internal working drafts of the permit, prior similar permits to compare to the eventual draft, and other useful documents and information through a Right-To-Know Request, discussed in the *How to Participate* section of this guide. If the new permit is a general permit, there is no requirement of public notice until DEP has produced a draft.

Public Comment Period

The public notice will instruct you where to send comments, and any other directions particular to the permit under consideration, 25 Pa. Code § 92a.82(b)(4).

You can sign up for daily updates by email on permit applications the DEP is processing at the eNOTICE site: <http://www.ahs.dep.pa.gov/eNOTICEweb/>. See Appendix pg. xliii for step-by-step instructions on how to navigate the website. You can also sign up to receive notices when draft technical documents are open for public comment, updates on DEP rulemakings, among others.

The eFACTS web site, described in further detail below in *How to Participate*, can also come in handy for tracking specific permits, and is a good alternative to eNOTICE if you do not wish to receive daily emails:
<http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx>.

Public Hearing

The *Pennsylvania Bulletin*, and possibly your local newspaper, will carry notice of a public hearing. Additionally, anyone who requested a fact sheet for the permit will receive a notice of a public hearing. As covered in “How NPDES Permits Get Issued,” public notice of the hearing will include the telephone number and address of the office from which you may request a fact sheet. If you requested a fact sheet when notice of the draft permit issued, you will receive notice of the hearing by mail, and you will automatically receive any updated versions of the fact sheet. The online DEP Calendar of Events will also display information about any scheduled public hearings on NPDES permits:

<http://www.ahs.dep.pa.gov/CalendarOfEvents/EventCalendar.aspx>

The public hearing is a good opportunity to meet agency employees and other officials connected to the decision making process, and you may be able to lay the groundwork for future communication.

You can watch a video of a DEP public hearing by clicking on the following link:

<http://pittsburghfoundation.org/node/33931>.

The permit in question is not a NPDES permit, but the process and the concerns of the parties are identical, and if you have never attended a public hearing this will prepare you for what to expect and allow you to see what works and what does not when presenting comments.

A Note on Public Participation Concerning General Permits

The above permit process is specific to individual permits. General permits have a slightly different process. If a general permit has already been issued by the DEP, then the applicant must file a Notice of Intent to Discharge (“NOI”) with the DEP under 25 Pa. Code § 92a.54, and DEP *may* be required to publish public notice of the NOI, and/or notice of approval for coverage in the *Pennsylvania Bulletin* under 25 Pa. Code § 92a.84(c). The DEP determines and the language of the general permit dictates when, if at all, the above notices are required.

General permits should be renewed every five years and the law requires the permits to be up for public comment when they are renewed. No matter when or if public notice is required for a discharge under a general permit, there is very limited opportunity for public involvement in the renewal process (likely because the public is invited to participate in the initial rulemaking which resulted in the General Permit under which renewal is sought).

Public Information Meeting and Informal Meetings

Public Information Meetings are an excellent way to learn more about a proposed permit. You can ask questions of both the DEP and the applicant, if they are in attendance. Although they do not occur often, it is important to look out for them and attend when you are able to.

You can request an informal meeting with the DEP and the applicant. The DEP will consider the potential impact of the project on you or your organization before granting your request. Often, the DEP will also limit the invitation to attend these meetings to the requester and the applicant only.

The discussions held at these meetings are not on the official record. However, these meetings can be very helpful in gathering information to form your public comment, which will be in the official record.

HOW TO PARTICIPATE

Public participation in the NPDES permitting process is relatively straightforward however truly effective participation requires at least adequate preparation, sufficient information, and the right stylistic choices.

Finding the Facilities

If you would like to find out if a facility in Pennsylvania is discharging pollutants under an NPDES permit and all you have is the name of the facility, or the name of the city and the zip code, then the DEP's eFACTS web site is a quick and easy way to find its Permit Number and Facility Number. You can go to the main website to search based on the information you have: <http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx>. If you already have the Facility Identification Number, you may use it to search for permit and inspection information at this address: http://www.ahs.dep.pa.gov/eFACTSWeb/criteria_facility.aspx (See Appendix pg. xxxvi for step-by-step instructions).

If you would rather get the information by telephone, you may also call the DEP office for your county. The full contact information is available here: http://www.portal.state.pa.us/portal/server.pt/community/about_dep/13464/office_locations/585263. If you do not have convenient internet access, the contact information is also included on page 33 of this guide.

Preparation

The first step is to decide what outcome you hope to achieve. Do you hope to improve the permit, support issuance of the permit, have the permit denied, or some other outcome? Maybe you will not know your precise objective for certain until you familiarize yourself with the law and review the draft permit itself or a fact sheet, as described in 25 Pa. Code § 92a.53, which the DEP will send you upon request after public notice of the draft permit under 25 Pa. Code § 92a.82(d). Before reviewing any of the permit documents, you will need to become familiar with the scope of the issue. This involves knowing the pertinent statutes and agency regulations. Create a checklist of what you hope to see in the permit. (See Appendix pg. ii-ii for examples of a checklist.) Base the checklist on the requirements contained in the statutes and regulations you have at this point familiarized yourself with, as well as facts and concerns you have that are not addressed but that you believe the DEP should consider.

It is also good to do some research on the facility whose permit you are commenting on. Is it renewing its permit? Has it had past permit violations? What pollutants does it discharge? Has the agency taken enforcement action against the facility in the past? All of this information should be publically available under Pennsylvania's Right-To-Know Law (65 P.S. §§ 67.101 *et seq.*).

Right-To-Know

Under the Pennsylvania Right-To-Know Law (65 P.S. §§ 67.101 *et seq.*), anyone can request access to public documents. Citizens can submit a formal Right-To-Know request in the form of a letter, online form or can schedule an informal file review with the appropriate agency to review the documents.

You can use this tool to review previous NPDES permits, DMRs, or any other public documents related to a particular facility. This can help you understand more about a facility and will give you information to help you write effective comments.

You can also request that any fees be waived pursuant to 65 P.S. § 67.1307(f)(2).

For more information about DEP's Right-To-Know procedure, go to:
http://www.portal.state.pa.us/portal/server.pt/community/public_records/19207/right_to_know_procedure/723458

Additionally, the EPA has a database called the Enforcement and Compliance History Online, or ECHO, available at: <http://www.echo.epa.gov>. You can search this database for facilities with NPDES permits. Each facility page will include information on the facility's permit, location, compliance history, environmental conditions, pollutants, and demographic profile. You will be able to click on a permit number for more detailed information on the facility's permit history, outfalls, effluent limitations, violations, and inspections. See Appendix pg. xl for step-by-step instructions.

HOW TO COMMENT

Written Comments:

The most common method of public participation is the written comment. A written comment to the DEP about an issue (or issues) with a permit application or draft permit, received during the public comment period, becomes part of the administrative record upon which the decision to permit or deny is made. Once a comment is part of the record, the DEP must consider it when making its permit decision.

Most of the major steps in preparing written comments should be followed even if your ultimate goal is to submit a verbal comment or simply preserve issues for appeal. You will need the same information as you would for a written comment and you should present it in the same clear and easy-to-understand manner so that the reader understands the issues you want addressed, and what you think the best method is to address them.

Written comments are made to the DEP Contact Office listed in the notice that the public comment period has opened. This notice will appear in the *Pennsylvania Bulletin*, and in your eNOTICE email if you have signed up for it. If you are not sure, find the DEP office for the county in which the facility is located and verify by phone that it is the correct office to receive your comment. You may make a new contact at the DEP. The list of offices by county is here:

http://www.depweb.state.pa.us/portal/server.pt/community/about_dep/13464/office_locations/585263.

Another simple way to provide a written comment is to join forces with a local organization or group. If the group is already planning to comment, then you can join in its comment, and there may be a spot for you to add a note to go with the main comment. If the group is not planning to comment, you may be able to interest them if you have some information to present, particularly if the group is local to the facility.

Verbal Comments:

If the DEP concludes that there is significant public interest in a permit — either on its own, or after petitioning by the public — there will be a public hearing (or meeting) on the issues. At this hearing, members of the public may make brief comments that will become part of the administrative record and must be responded to by the DEP before it takes final action. It is most effective to use verbal commenting as a supplement to written comment, and it is not much more effort since the preparation for each is essentially identical.

You will see the call for requests or petitions for public hearings in the notice of public comment in the *Pennsylvania Bulletin*, where you will also see notice of any public hearing. A great place to look for events such as public hearings is the DEP Calendar of Events, located online here:

<http://www.ahs.dep.pa.gov/CalendarOfEvents/EventCalendar.aspx>. It is easy to read, and formatted clearly like a normal wall calendar. You can click on the events to see more information. See Appendix pg. xlix for how to use the Calendar.

For specific information on how to best make your written and verbal comments, see the *Effective Participation* section, below.

Follow Up

After you have submitted your comment you can take several steps to ensure that your voice is heard by the agency. First, review other people's comments and submit additional comments if you have discovered more information or evidence to back up your original comments. If you made comments at a public hearing, send in written comments outlining what you said at the hearing. If you are an organization, make your comment publically available and issue a press release. Encourage others to submit comments as well. The more people voicing an opinion, the more likely the agency will consider it when making their permit decision. Finally, once the comment period has ended, obtain a copy of the DEP's response to public comments. This document can be useful for future comments or when appealing a permit decision. As mentioned earlier in this guide, the comment and response document will be noticed in the *Pennsylvania Bulletin* and available to the public by request. Additionally, if you made a comment, you will either be mailed a copy or noticed of an electronic posting.

APPEALS

If you have not done so already, you should seek legal counsel for an appeal of a permit. Although legal representation is not required for an individual at this stage, the appeals process is complex and some parts of the process require specialized experience in order to do them correctly (and some must be done correctly the first time). If you are part of a group of individuals or an organization that is appealing a permit decision, the group must be represented by an attorney under 25 Pa. Code § 1021.21. Not only will an experienced lawyer know more about how to navigate the appeals procedure, but she will also have a better chance of spotting issues for your appeal.

CITIZENS SUIT

The Clean Water Act also contains a very important provision: the Citizens Suit, 33 U.S.C § 1365. While this topic is beyond the scope of this guide, it is important to know the basics. The Citizens Suit provision allows a person to bring suit against anyone who discharges pollutants in violation of

Attorney's Fees

The Clean Streams Law's section 307(b) also allows the EHB to award reasonable attorneys' fees to the winner after a law suit in certain circumstances. The courts use the *Kwalwasser* test (named after an EHB decision) to determine when an award of fees is appropriate: the court will generally award fees when: 1) a final order has been issued; 2) the applicant for the fees and expenses is the prevailing party; 3) the applicant has achieved some degree of success on the merits; 4) the applicant has made a substantial contribution to a full and final determination of the issues.

The prevailing plaintiff has thirty days to petition for fees after the EHB has issued its final decision. The EHB will generally stay the application upon appeal to the Commonwealth Court.

his or her permit or without a permit at all. An individual can also bring suit against the EPA or state administrator who has failed to perform a non-discretionary act. So long as you have a cognizable interest in the illegal discharge or failure to act, you can bring suit to ensure compliance with the law. Citizens can monitor permits and facilities to be sure that they are complying with the Clean Water Act and parallel state laws. Once you learn about the permit process and what must be in a permit, monitoring permits that are of interest to you becomes a simple task that just requires time. Although bringing legal action can involve knowledge beyond that of a typical individual or organization, there are several organizations that can help guide you through the process or find an

attorney to represent you, including the Environmental and Natural Resources Law Clinic at Widener University Delaware Law School and the Mid-Atlantic Environmental Law Center.

EFFECTIVE PARTICIPATION

Contact Your DEP Office

Individuals at your DEP regional office can help answer your trickier questions, and may be able to tell you the status of permit applications or draft permits before you would otherwise know about them. This can be important to your cause, because the best time to influence any agency document is before it is written. Your DEP office may also be able to put you on a notification list, so that you will get updated information without having to search for it. On the next page is a list of DEP Regional Offices.

DEP Regional Offices

DEP Northwest Regional Office

230 Chestnut Street
Meadville, PA 16335
Office Hours 8 a.m. - 4 p.m.
Phone: 814-332-6945

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence McKean, Mercer, Venango, Warren

DEP Southwest Regional Office

400 Waterfront Drive
Pittsburgh, PA 15222
Business Hours: 8 a.m. to 4 p.m.
Phone: 412-442-4000

Counties: Allegheny County, Armstrong County, Beaver County, Cambria County, Fayette County, Greene County, Indiana County, Somerset County, Washington County, Westmoreland County

DEP North-central Regional Office

208 West Third St.
Suite 101
Williamsport, PA 17701
Office Hours 8 a.m. - 4 p.m.
Phone: 570-327-3636

Counties : Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, York. Snyder, Sullivan, Tioga and Union

DEP South-central Regional Office

909 Elmerton Ave.
Harrisburg, PA 17110
Business Hours: 8:00 a.m. to 4:00 p.m.
Phone: 717-705-4700

Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, and York

DEP Northeast Regional Office

2 Public Square
Wilkes-Barre, PA 18701-1915
Business Hours: 8 a.m. to 4:00 p.m.
Phone: 570-826-2511

Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming

DEP Southeast Regional Office

2 E. Main Street
Norristown, PA 19401-4915.
Phone: 484 250-5900

Counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia.

For more information on DEP Offices see DEP Regional Resources:

http://www.depweb.state.pa.us/portal/server.pt/community/regional_resources/13769

Have a Direct Influence on the Permit

The most common method for influencing an NPDES permit is submission of a comment, written or verbal, during the public comment period. We covered the process for doing this above in the *How to Comment* section. No matter what else you choose to do, you should submit a written comment: the preparation of a written comment includes the steps you should take to prepare for any other type of involvement, and written comments must be considered by the agency.

The second method is to get involved in the formulation of a draft permit before it becomes public. This will require the most extensive and difficult preparation because, although this requires essentially the same as preparing and submitting a written comment, you will need to have, or quickly acquire, significant knowledge of the issues and laws involved to comment effectively at this stage. However, as soon as you are notified of a permit application, you can prepare comments for the draft permit and submit to the DEP, even without knowing whether a draft permit is in the works. Although the DEP is not required to consider it, it gets your position to the agency before a draft permit is issued.

Make Sure Your Comment Is Heard by the Agency

Coordinate your comments with others to make sure your message is heard, and given the appropriate weight. Contact people and groups who share your concerns, including businesses and other government agencies whose comments are hard for DEP to ignore. Groups often have greater knowledge of the issues and can bring credibility to your comments. The easiest and most certain way to make sure your comment is considered is to join forces with a local group or organization that shares your concern. Groups often choose to petition for signatures for its written comments, petition for a public hearing, or arrange for its members to speak at public hearings.

Often, groups have greater resources and expertise to understand the issues and determine effective tactics. You can do something as simple as adding your name to the group's comment, or you can get involved by volunteering your time. An alphabetical list of links to Pennsylvania environmental organizations is available here: <http://www.eco-usa.net/orgs/pa.shtml>.

Additionally, no matter what form your input takes, always be firm, respectful, and dignified. The person who reads or hears your comment will not be able to do anything — and will not want to do anything — with a comment that is accusatory, unclear, or off-topic. This is a chance for you to help make the rules, and your input is likely to be ignored if it comes across as hostile.

Compose an Effective Written Comment

Just as you should take a strategic approach to your involvement in the permitting process, you should take a strategic approach to composing your written comment. Your preparation of your written comment should form the basis for any other input you make, for instance any verbal comment you make should cover the same points as your written comment.

Follow these steps as you prepare to compose your comment:

First, decide what outcome you want from your comment. What would you like to have happen as a result? Do you want the permit denied, approved, or added to in some way, or is there some other outcome you seek? Two important pitfalls to avoid at this stage are composing a comment in the form of a question and composing a comment that is not grounded in any legal requirement of the permit or the permitting process.

A comment in the form of a question is something similar to:

“Why did the DEP not consider the impact of the facility on ‘X’ when drafting the permit?”

Even if this question is valid, the purpose of the public comment period is not to answer the public’s questions and a question will not impact a final permit. Even if you are correct, and the DEP should have considered this factor in drafting this permit, the agency will not do the work of turning your question into the critique you intend it to be. As a result your comment will not be given much weight and an important observation may be lost in the process. What you want to say instead, if applicable, is:

“The DEP is required to consider the impact of the facility on ‘X’ because ‘Y’ law says it must.”

This type of comment connects the DEP’s failure to consider the factor to a particular legal requirement that the DEP consider such a factor. A comment that is not grounded in any legal basis will not be seen as pertinent by the reader, and will not effectively persuade the reader that anything about the permit or the permitting process followed — or whatever the issue you wanted to make clear happened to be — should (or should not) be reconsidered.

Take the following comment:

“The permit should not be granted because I live downstream from the facility and I do not want it there”

A comment such as this one may well be factual and very likely influences your decision to comment. However, if you think the DEP has done something particularly right that should not be changed, or has done something wrong that should, then your comment will have to be designed to make it clear precisely what you mean.

Whatever we might wish it to be, the job of the DEP in drafting, granting, and denying NPDES permits is to follow the existing laws and regulations. Therefore, to be effective your comments will need to clearly tie what you would like to see happen to the permit to some requirement that has a basis in law. Similarly, your comment will be more persuasive when it is supported with evidence, whether scientific, or more simply, your recorded observations.

Here is a better way to communicate your concern:

“The permit should not be issued because the water into which the facility will discharge under the permit has been designated a High Value Water and the impacts this facility’s permit would have to water quality would violate the requirements of 25 Pa. Code 93.4c by providing for discharge limitations that would fail to maintain and protect the existing quality of the receiving waters.”

As an added benefit, if you are correct but the DEP does not follow the legal requirement, it can be the basis for the EHB overturning the DEP’s action on appeal.

Second, consider coordinating you’re your comment with a local group or organization that shares your concern and seeks an outcome similar to yours. An alphabetical list of links to Pennsylvania environmental organizations is available here: <http://www.ecousa.net/orgs/pa.shtml>.

Third, create a checklist of things you would like to see in the permit. See Appendix pg. ii-iii for examples. This will be a reflection of what you want the outcome to be. If you want the permit denied, your checklist will be the things in the draft permit you think violate the law or make approval a bad idea. If you want the draft permit altered, your checklist will be the sections for which you propose changes, or sections you wish to add.

When you are ready to compose your comment, follow these guidelines:

- ❖ Be concise, clear, and convincing. The person reading your comments will be busy, and will not want to have to make changes to the draft. If your comment is too long, or it is difficult to understand, it is less likely to achieve the outcome you want. Think of the rest of these guidelines as tools to help you be concise, clear, and convincing.
- ❖ Stick to your strongest points, and make the stronger of those first. It will not serve your strategic purpose to suggest every correction that occurs to you. Don't lose the impact of your main point by overloading your comment with suggestions that do not support it.
- ❖ Be specific. If you are not specific, your comments will not be clear and your reader will not know how to make the changes you want. Use real-world examples if you can and hypothetical examples if you need to.

Providing suggested language in your written comment is ideal. Your ideas are far more likely to become reality if you make it as clear and easy as possible for the permit authors to understand and implement them. In this case the DEP can tell exactly what you want because you have provided it with precisely what you would like to see as the final result. If you provide suggested language—and your entire comment is concise and convincing—you stand a good chance of influencing the agency's final decision on the permit.

Along with your suggestions for changes, identify sections of the permit you particularly like, if at all possible. The DEP may well contemplate changes you do not want and your support for those sections may make a difference. Finally, and perhaps obviously, it never hurts to let someone know you appreciate his or her work.

Make an Effective Verbal Comment

Verbal comments are made at public hearings. These hearings are held if the DEP determines that there is sufficient public interest. Local groups and organizations may circulate a petition to gather signatures to show the DEP that public interest is sufficient. If you organize your own petition, make sure the signatures you collect accompany your written comment and that everything is sent to the correct DEP office by the deadline.

Here are some tips for making an effective verbal comment:

- ❖ Verbal comments are most effective when they are made in conjunction with a written comment, and when they are made in conjunction with a group, organization, or a number of fellow commenters.
- ❖ Practice making your comment out loud before the day of the meeting. Do not read directly from a script if you can manage it; instead, use notecards to remind you of key facts and to mark where you are.
- ❖ Bring a copy of your full comment with you to share with officials you meet and to enter into the record.
- ❖ Be sure to stay within the time limit given. (Tip: 1 minute = 140-160 words)
- ❖ Address all of your remarks to “the Chair,” who is the man or woman who leads the hearing.
- ❖ Bring photos or other visual aids, such as a stack of petition cards or pictures of the polluting industry
- ❖ At the meeting, introduce yourself to people and write down their names. This will help you figure out whom to follow up with later, and it will help the people hearing your comment remember it.
- ❖ Include your name and contact information, but remember that your comment will become a public document

Before you speak at a public hearing, you should compose your comment.

First, compose a written comment by following the guidelines for written comments above. The preparation for each type of comment is the same, and the steps are necessary for you to compose a comment that gets the attention and results you want.

Second, pick one to three key points from your written comment to make up your verbal comment. Limiting what goes into your verbal comment allows you to fully explain the points you include, and to fit those points into the few minutes you are given to make them.

Extra Tips for An Effective Verbal Comment

1. Only speak to what you are an expert on (law, health, family, social justice, etc.)
2. Be engaged, smile, say thank you
3. If you are preparing robust comments to an agency, establish a relationship with them. Speak with the agency before giving your comments to find out what they are looking for, what they need help with, or to discuss ideas you have that they may not have thought of.

Following Up On Your Submitted Comment

If you want to continue participating in the process after you have made your comments, even after the close of the official comment period, there are a few ways to do so, some of which, we have discussed earlier in the guide.

After you review the comments of others, you may submit an additional comment that responds directly to the points of the other commenters. These other comments may also alert you to another point or additional facts you would like to include in the record. Follow the same procedure as you would for any other comment. If it is after the comment period your new comment may or may not be included in the record, but it is not a useless exercise.

If you only made verbal comments, you should send a written copy of your comment, along with a letter requesting inclusion in the administrative record, to your DEP office.

You may also rally support and get publicity for your position independent of the administrative process. Involve local groups, businesses, organizations, fellow citizens, legislators at any level that represent you. If you are an organization, make your comment publically available and issue a press release.

CONCLUSION

We hope that this guide has been able to help you navigate the Pennsylvania NPDES permitting process. Public participation in this process is vital to its success. The Appendix that follows this guide gives you additional information on how to review a NPDES permit and how to use a multitude of state and federal websites to find information on NPDES permits.

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INDEX

- Anti-backsliding, 14
- Anti-degradation, 14
- Appeal(s), 17, 18, 19, 27, 29, 34
- Application, *See Permit, Application*
- Calendar of Events, 24, 28, 39
- Citizens Suit, 29
- Clean Streams Law, 5, 7, 10, 12, 15, 40
- Clean Water Act, 4, 5, 6, 7, 8, 9, 10, 14, 15, 21, 29, 40
- Comment
 - Verbal, 27
 - Written, 5, 6, 7, 16, 17, 21, 23, 25, 27, 28, 29, 32, 33, 34, 35, 36, 37
- Comment and Response, 5, 17
- Compliance, 4, 5, 7, 8, 15, 21, 26, 29
- Discharge, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 26, 29
- Discharge Monitoring Report (DMRs), 5, 15, 27
- Draft Permit, *See Permit, Draft*
- ECHO Database, 26
- eFACTS, 24, 25
- Effluent Limitation, 5, 8
- Environmental Hearing Board (EHB), 18, 19, 34, 40
- eNOTICE, 23, 24, 27
- Environmental Protection Agency (EPA), 5, 6, 7, 9, 26, 29
- Exceptional Value, 12, 14
- Fact sheet, 16, 24, 26
- Final Action, 16, 17, 18, 28
- Final Permit, *See Permit, Final*
- General Permit, *See Permit, General*
- High Quality, 12, 14
- Individual Permit, *See Permit, Individual*
- Informal Meetings, 17, 25
- Monitoring, 6, 8, 11, 12, 15, 21, 30
- Notice of Appeal, 24
- National Pollutant Elimination Discharge System (NPDES), 1, 2, 3, 4, 5, 6, 7, 8, 10, 13, 15, 16, 18, 23, 24, 25, 26, 32, 34
- Pennsylvania Bulletin, 5, 16, 17, 18, 23, 24, 27, 28, 29
- Pennsylvania Department of Environmental Protection, 4, 6, 7, 39
- Permit,
 - Application, 6, 7, 11, 15, 17, 23, 27, 32
 - Draft, 23, 27
 - Final, 5, 17
 - General, 12, 23
 - Individual, 12
 - Renewal, 20
- Permit Decision Guarantee, 20
- Point Source, 5, 6, 7, 8, 9, 10, 13, 14, 16
- Pollutant, 7, 8, 10, 13, 14, 23
- Pollution, 7, 9, 10
- Public Comment Period, 6, 16, 23
- Public Hearing, 16, 17, 24, 28, 32, 36
- Public Information Meeting, 25
- Public Interest, 17, 28, 35
- Public Participation, 17, 27
- Renewal, 7, 16, 20, 24
- Reporting, 6
- Right-To-Know, 23, 26, 39
- Sampling, 15
- Technology Based Standards, 14
- TMDL, 13
- Use Designation, 13, 14
- Verbal Comment, *See Comment, Verbal*
- Violation, 9, 12, 15, 29
- Water Quality Standards, 13
- Written Comment, *See Comment, Written*

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Appendix

TABLE OF CONTENTS

Table of Contents.....	i
Checklist for Individual NPDES Permits.....	ii
Checklist for General NPDES Permits.....	iii
Sample Individual NPDES Permit	iv
Sample General Fact Sheet	xxvi
How-To Guides.....	xxxv
eFacts.....	xxxvi
EPA’s ECHO Database.....	xl
eNOTICE.....	xliii
The Electronic Discharge Monitoring Report (EDMR) System.....	xlv
The Pennsylvania Bulletin.....	xlvii
DEP Calendar of Events.....	xlix

CHECKLIST FOR INDIVIDUAL NPDES PERMITS

- If the permit is a renewal permit, compare the draft permit to the old permit.
 - Are there any changes? If so, each change needs to have a reason why. Assess the reasoning given for each change.
 - Is there an increase of effluent limitations, a forgiveness period or a reduction in reporting or monitoring? If there is backsliding, it is illegal and should be addressed.
 - Read the fine print and all the clauses carefully, there may be hints of back sliding, variances or adjustments after a period of time.

- Is the facility new or is the facility increasing its capacity?

- Are the limits technology based or water quality based? If the receiving stream is on the 303(d) list or has a TMDL, water quality based limits are important in maintaining water quality.

- Are the effluent limitations stringent enough to protect the receiving water?

- What is the frequency of sampling for effluents?
 - What kind of discharge is coming from the facility?
 - Is the discharge affected by rain events?
 - Is the frequency of sampling often enough to record important events, such as rain events?

- What type of facility is it? Does it have all the parameters listed that should be listed?

- Are there parameters that are "measure only"? If so, there needs to be a reason why and a time frame as to when limits will be set.

- What is the discharge flow rate of the facility compared to the flow rate of the receiving stream? Make sure that the receiving stream flow rate is up to date and accurate.

- Review the toxicity testing of the effluents. Is there something that stands out?

- Is there nutrient trading involved? If so, does it comply with the regulations?

- Do a compliance review: Review the most recent Discharge Monitoring Reports to see if there are any violations or errors in the reporting, and inspection reports to see if there is a repetitive error or issue that could be addressed in the permit.

CHECKLIST FOR GENERAL NPDES PERMITS

- Is the general permit over five years old? If so, the general permit must be renewed
 - PADEP is required to renew general permits every five years.
 - Write to the PADEP to encourage the agency to renew the general permit.
 - If PADEP is unresponsive, you can bring an action.

- Is there a public notice requirement when a facility issued a Notice of Intent for a general permit?
 - Public notice for an NOI is not generally required, but this does not stop citizens from encouraging PADEP to require it.
 - Public notice can take different forms under 25 Pa. Code § 92a.84(c):
 - Notice of both an NOI and approval for coverage under a general permit in the *Pennsylvania Bulletin*.
 - Notice only of approval for coverage under a general permit in the *Pennsylvania Bulletin*.

 - Public notice of an NOI will alert the public as to new facilities that will be regulated under the NPDES permit program, allowing the public to better monitor such facilities.

- Are the effluent limitations stringent enough to protect the receiving water?

- What is the frequency of sampling for effluents?
 - What kind of discharge is coming from the facility?
 - Is the discharge affected by rain events?
 - Is the frequency of sampling often enough to record important events, such as rain events?

- What type of facility is it? Does it have all the parameters listed that should be listed?

- Are there parameters that are "measure only"? If so, there needs to be a reason why and a time frame as to when limits will be set.

- Review the toxicity testing of the effluents. Is there something that stands out

**SAMPLE INDIVIDUAL
NPDES PERMIT**

Permit



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER SUPPLY AND WASTEWATER MANAGEMENT

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE REQUIREMENTS FOR PUBLICLY OWNED
TREATMENT WORKS (POTWs)**

NPDES PERMIT NO: [REDACTED]

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, *as amended*, 35 P.S. Section 691.1 *et seq.*,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

is authorized to discharge from a facility known as [REDACTED] **WWTP**, located at [REDACTED] [REDACTED] to the [REDACTED] in Watershed [REDACTED] in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B and C hereof.

THIS PERMIT SHALL BECOME EFFECTIVE ON August 1, 2008

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON July 31, 2013

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
3. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form.

In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Discharge Monitoring Reports (DMRs), will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application.

4. This NPDES permit does not constitute authorization to construct or make modifications to wastewater treatment facilities necessary to meet the terms and conditions of this permit.

DATE PERMIT ISSUED July 7, 2008

ISSUED BY [Signature]

DATE PERMIT AMENDMENT ISSUED _____

TITLE: **Water Management Program Manager**

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

i. For Outfall 001, Latitude [REDACTED], Longitude [REDACTED], River Mile Index 1.9, Stream Code [REDACTED]

which receives wastewater from [REDACTED]

a. The permittee is authorized to discharge during the period from issuance through expiration.

b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information):

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Weekly Average	Inst. Minimum	Monthly Average	Weekly Average	Inst. Maximum ⁽²⁾		
Flow (MGD)	Monitor/Report	Monitor/Report Daily Maximum					Continuous	Metered
CBOD ₅	183	275		16	24	32	2/week	24 HC
CBOD ₅ Percent Removal*				>89.25%			2/Week	Calculated
Total Suspended Solids	350	525		30	45	60	2/Week	24 HC
CBOD ₂₀	365						2/Week	24 HC
Fecal Coliform				# 200/100 ml Geometric Mean		# 1,000/100 ml	2/Week	Grab
Total Residual Chlorine				0.5		1.6	Daily	Grab
Copper, Total (Year 1 through Year 2)				Monitor/Report	Monitor/Report Daily Maximum	Monitor/Report	1/Month	24 HC
Copper, Total (Year 3 through Year 5)				0.045	0.09 Daily Maximum	0.113	1/Month	24 HC
Dissolved Oxygen			Monitor/Report	Monitor/Report			Daily	Grab
pH (STD Units)			6.0			9.0	Daily	Grab
PCB, Total (Dry Weather) pg/l **					Monitor/Report Daily Maximum		2/Year	24 HC
PCB, Total (Wet Weather) pg/l **					Monitor/Report Daily Maximum		2/Year	24 HC

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Outfall 001

*See Other Requirements No. 10

** See Other Requirements No.17

Permit No. [REDACTED]

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

I. For Outfall 002, Latitude [REDACTED], Longitude [REDACTED], River Mile Index 0.4, Stream Code [REDACTED]

which receives stormwater from [REDACTED] WWTP Site

- a. The permittee is authorized to discharge during the period from issuance through expiration.
- b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information):

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Weekly Average	Minimum	Monthly Average	Weekly Average	Maximum Daily		
CBOD ₅						Monitor/Report	1/Year	Grab
COD						Monitor/Report	1/Year	Grab
Oil and Grease						Monitor/Report	1/Year	Grab
pH (STD)						Monitor/Report	1/Year	Grab
Total Suspended Solids						Monitor/Report	1/Year	Grab
Total Kjeldahl Nitrogen						Monitor/Report	1/Year	Grab
Fecal Coliform (# Col/100 ml)						Monitor/Report	1/Year	Grab
Total Phosphorus						Monitor/Report	1/Year	Grab
Iron (Dissolved)						Monitor/Report	1/Year	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): the last manhole before the end of the discharge pipe.

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS (Con't)

Additional Requirements

- c. The discharger shall not discharge floating materials, oil, grease, scum, foam, sheen, and substances which produce color, taste, odor, turbidity, or settle to form deposits in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant, or aquatic life.
- d. Except as otherwise specified in this permit, the 30-day average percent removal for carbonaceous biochemical oxygen demand and total suspended solids shall not be less than 85 percent.

Footnotes

- (1) When sampling to determine compliance with mass effluent limitations, the discharge flow at the time of sampling must be measured and recorded.
- (2) The Instantaneous Maximum Discharge Limitations are for compliance use by DEP only. Do not report instantaneous maximums on DMRs or supplemental DMRs unless specifically required on those forms to do so.
- (3) This is the minimum number of sampling events required. Permittees are encouraged, and it may be advantageous in demonstrating compliance, to perform more than the minimum number of sampling events.

Supplemental Information

- (1) The hydraulic design capacity of 2.8 million gallons per day for the treatment facility is used to prepare the annual Municipal Wasteload Management Report to help determine whether a "hydraulic overload" situation exists, as defined in Title 25 Pa. Code Chapter 94.
- (2) The effluent limitations for Outfall 001 were determined using an effluent discharge rate of 1.4 million gallons per day.

II. DEFINITIONS

At Outfall (XXX) means a sampling location in outfall line XXX below the last point at which wastes are added to outfall line (XXX), or where otherwise specified.

Average refers to the use of an arithmetic mean, unless otherwise specified in this permit.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution to surface waters of the Commonwealth. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Clean Water Act means the Federal Water Pollution Control Act, as amended. (33 U.S.C.A. §§1251 to 1387).

Composite Sample (for all except GC/MS volatile organic analysis) means a combination of individual samples (at least eight for a 24-hour period or four for an 8-hour period) of at least 100 milliliters (mL) each obtained at spaced time intervals during the compositing period. The composite must be flow-proportional; either the volume of each individual sample is proportional to discharge flow rates, or the sampling interval is proportional to the flow rates over the time period used to produce the composite.

Composite Sample (for GC/MS volatile organic analysis) consists of at least four aliquots or grab samples collected during the sampling event (not necessarily flow proportioned). The samples must be combined in the laboratory immediately before analysis and then one analysis is performed.

Daily Average Temperature means the average of all temperature measurements made, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar day or during the operating day if flows are of a shorter duration.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Discharge Limitation means the highest allowable "daily discharge."

Discharge Monitoring Report (DMR) means the DEP or EPA supplied form(s) for the reporting of self-monitoring results by the permittee.

Estimated Flow means any method of liquid volume measurement based on a technical evaluation of the sources contributing to the discharge including, but not limited to, pump capabilities, water meters and batch discharge volumes.

Geometric Mean means the average of a set of n sample results given by the nth root of their product.

Grab Sample means an individual sample of at least 100 mL collected at a randomly selected time over a period not to exceed 15 minutes.

Hazardous Substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

Immersion Stabilization (i-s) means a calibrated device is immersed in the wastewater until the reading is stabilized.

Industrial User or Indirect Discharger means a non-domestic discharger introducing pollutants to a Publicly Owned Treatment Works (POTW).

Maximum Any Time or Instantaneous Maximum means the level not to be exceeded at any time in any grab sample.

Measured Flow means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

Monthly Average Discharge Limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Municipality means a city, town, borough, country, parish, district, association or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §1288 of the Clean Water Act.

Publicly Owned Treatment Works (POTW) means a treatment works as defined by §1292. of the Clean Water Act, owned by a municipality. The definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes or other conveyances if they convey wastewater to a POTW providing treatment.

Severe Property Damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Stormwater means the runoff from precipitation, snow melt runoff, and surface runoff and drainage.

Stormwater Associated With Industrial Activity means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas as defined at 40 CFR §122.26(b)(14).

Toxic Pollutant means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains may, on the basis of information available to DEP cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring.

Weekly Average Discharge Limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.

III. SELF-MONITORING, REPORTING AND RECORDKEEPING

A. Representative Sampling

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Records Retention

Except for records of monitoring information required by this permit related to the permittee's sludge use and disposal activities which shall be retained for a period of at least 5 years, all records of monitoring activities and results (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records), copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee for 3 years from the date of the sample measurement, report or application. The 3-year period shall be extended as requested by DEP or the EPA Regional Administrator.

3. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling or measurements.
- b. The person(s) who performed the sampling or measurements.
- c. The date(s) the analyses were performed.
- d. The person(s) who performed the analyses.
- e. The analytical techniques or methods used; and the associated detection level.
- f. The results of such analyses.

4. Test Procedures

Facilities that test or analyze environmental samples used to demonstrate compliance with this permit shall be in compliance with laboratory accreditation requirements of Act 90 of 2002 (27 Pa. C.S. §§4101-4113), relating to environmental laboratory accreditation. Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those approved under 40 CFR Part 136 (or in the case of sludge use or disposal, approved under 40 CFR Part 136, unless otherwise specified in 40 CFR Part 503), or alternate test procedures approved pursuant to those parts, unless other test procedures have been specified in this permit.

5. Quality/Assurance/Control

In an effort to assure accurate self-monitoring analyses results:

- a. The permittee, or its designated laboratory, shall participate in the periodic scheduled quality assurance inspections conducted by DEP and EPA.
- b. The permittee, or its designated laboratory, shall develop and implement a program to assure the quality and accurateness of the analyses performed to satisfy the requirements of this permit, in accordance with 40 CFR Part 136.

B. Reporting of Monitoring Results

1. The permittee shall effectively monitor the operation and efficiency of all wastewater treatment and control facilities, and the quantity and quality of the discharge(s) as specified in this permit.
2. Unless instructed otherwise in PART C of this permit, a properly completed DMR must be received by the following addresses within 28 days after the end of each monthly report period:

Department of Environmental Protection
Water Management Program
2 East Main Street
Norristown, PA 19401

NPDES Enforcement Branch (3WP42)
Office of Permits and Enforcement
Water Protection Division
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Delaware River Basin Commission
Operations Branch
P.O. Box 7360
West Trenton, NJ 08628

3. The completed DMR Form shall be signed and certified either by the following applicable person, as defined in 40 CFR 122.22(a), or by that person's duly authorized representative, as defined in 40 CFR §122.22(b):
 - For a corporation - by a principal executive officer of at least the level of vice president, or an authorized representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.
 - For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
 - For a municipality, state, federal or other public agency - by a principal executive officer or ranking elected official.

If signed by a person other than the above, written notification of delegation of DMR signatory authority must be submitted to DEP in advance of or along with the relevant DMR form.

4. If the permittee monitors any pollutant, using analytical methods described in PART A III.A.4. herein, more frequently than the permit requires, the results of this monitoring shall be incorporated, as appropriate, into the calculations used to report self-monitoring data on the DMR.

C. Reporting Requirements

1. Planned Changes - The permittee shall give notice to DEP as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b).
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this permit, nor to notification requirements under 40 CFR §122.42(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. Anticipated Noncompliance

The permittee shall give advance notice to DEP of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Unanticipated Noncompliance or Potential Pollution Reporting

- a. The permittee shall report any noncompliance, accident or incidents causing or threatening pollution pursuant to Title 25 Pa. Code §91.33 to DEP by telephone immediately giving the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.
- b. The permittee shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition, within 15 days from the incident, shall remove any residual substances from the ground and affected waters to the extent required as stated in Title 25 Pa. Code §91.33.
- c. A written submission shall also be provided within 5 days of the time the permittee becomes aware of any noncompliance or incident causing or threatening pollution. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including the exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

- d. DEP may waive the written report on a case-by-case basis for reports under paragraph C.3.c. of this section if the oral report was received immediately and no adverse impact has been reported.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under paragraph C.3.a of this section, at the time DMRs are submitted. The reports shall contain the information listed in paragraph C.3.c. of this section.

PART B

I. MANAGEMENT REQUIREMENTS

A. Compliance Schedules

1. The permittee shall achieve compliance with the terms and conditions of this permit within the time frames specified in this permit.
2. The permittee shall submit reports of compliance or noncompliance, or progress reports as applicable, for any interim and final requirements contained in this permit. Such reports shall be submitted no later than 14 days following the applicable schedule date or compliance deadline.

B. Permit Modification, Termination, or Revocation and Reissuance

1. This permit may be modified, terminated, or revoked and reissued during its term in accordance with Title 25 Pa. Code Chapter 92.
2. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
3. In the absence of DEP action to modify or revoke and reissue this permit, the permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time specified in the regulations that establish those standards or prohibitions.

C. Duty to Provide Information

1. The permittee shall furnish to DEP, within a reasonable time, any information which DEP may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
2. The permittee shall furnish to DEP, upon request, copies of records required to be kept by this permit.
3. Other Information - Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to DEP, it shall promptly submit the correct and complete facts or information.
4. The permittee shall provide the following information in the annual Municipal Wasteload Management Report, required under the provisions of Title 25 Pa. Code Chapter 94.
 - a. A new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging pollutants.
 - b. A substantial change in the volume or character of pollutants being introduced into the POTW by an indirect discharger introducing pollutants into the POTW at the time of issuance of this permit.
 - c. Information on the quality and quantity of the effluent introduced into the POTW by an industrial user or an indirect discharger and the anticipated impact of the change in the quality and quantity of effluent to be discharged from the POTW.
 - d. The identity of the industrial users served by the POTW which are subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act; the POTW shall also specify the total volume of discharge and estimate concentration of each pollutant discharged into the POTW by the industrial user.

- e. The POTW shall require all industrial users subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act and regulations thereunder.

D. Proper Operation and Maintenance

1. The permittee shall employ operator's certified in compliance the Water and Wastewater Systems Operators Certification Act (63 P.S. §§1001-1015.1).
2. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls including appropriate quality assurance procedures. This provision also includes the operation of backup or auxiliary facilities or similar systems that are installed by the permittee, only when necessary to achieve compliance with the terms and conditions of this permit.

E. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge, sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

F. Bypassing

1. Bypassing Not Exceeding Permit Limitations - The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are subject to the reporting and notification requirements of Part A.III.C.4. (Other Noncompliance).
2. Other Bypassing - In all other situations, bypassing is prohibited and DEP may take enforcement action against the permittee for bypass unless:
 - a. A bypass is unavoidable to prevent loss of life, personal injury or "severe property damage."
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
 - c. The permittee submitted the necessary notice required in F.4.a. and b. below.
3. DEP may approve an anticipated bypass, after considering its adverse effects, if DEP determines that it will meet the conditions listed in F.2. above.
4. Notice
 - a. Anticipated Bypass – If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the bypass.
 - b. Unanticipated Bypass – The permittee shall submit notice of an unanticipated bypass causing or threatening pollution as required in PART A III.C.3. (Unanticipated Noncompliance or Potential Pollution Reporting) and other bypass as required in C.4. (Other Noncompliance).

II. PENALTIES AND LIABILITY

A. Violations of Permit Conditions

Any person violating Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act or any permit condition or limitation implementing such sections in a permit issued under Section 402 of the Act is subject to civil, administrative and/or criminal penalties as set forth in 40 CFR §122.41(a)(2).

Any person or municipality who violates any provision of this permit; any rule, regulation or order of DEP; or any condition or limitation of any permit issued pursuant to the Clean Streams Law, is subject to criminal and/or civil penalties as set forth in Sections 602, 603 and 605 of the Clean Streams Law.

B. Falsifying Information

The Clean Water Act provides that any person who does any of the following:

- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, or
- Knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit (including monitoring reports or reports of compliance or noncompliance), shall, upon conviction, be punished by a fine and/or imprisonment as set forth in 18 P.S. §4904 and 40 CFR §122.41(j)(5) and (k)(2).

C. Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance pursuant to Section 309 of the Clean Water Act or Sections 602, 603 or 605 of the Clean Streams Law.

Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under the Clean Water Act and the Clean Streams Law.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

III. OTHER RESPONSIBILITIES

A. Right of Entry

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law, and Title 25 Pa. Code Chapter 92 and 40 CFR §122.41(i), the permittee shall allow authorized representatives of DEP and EPA, upon the presentation of credentials and other documents as may be required by law:

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. To have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Clean Streams Law, any substances or parameters at any location.

B. Transfer of Permits

1. Transfers by modification. Except as provided in paragraph 2 of this section, a permit may be transferred by the permittee to a new owner or operator only if this permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
2. Automatic transfers. As an alternative to transfers under paragraph 1 of this section, any NPDES permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies DEP at least 30 days in advance of the proposed transfer date in paragraph 2.b. of this section;
 - b. The notice includes the appropriate DEP transfer form signed by the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
 - c. If DEP does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue this permit, the transfer is effective on the date specified in the agreement mentioned in paragraph 2.b. of this section.
3. In the event DEP does not approve transfer of this permit, the new owner or controller must submit a new permit application.

C. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

D. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

E. Other Laws

The issuance of this permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

PART C

I. OTHER REQUIREMENTS

1. Notification of the designation of the responsible operator must be submitted to the permitting agency by the permittee within 60 days after the effective date of the permit and from time to time thereafter as the operator is replaced.
2. For reporting purposes on the DMR, the term "average weekly" shall mean the highest average weekly value observed during the monthly monitoring period.
3. If, at anytime, the DEP determines that the discharge permitted herein creates a public nuisance or causes environmental harm to the receiving water of the Commonwealth, the DEP may require the permittee to adopt such remedial measures as will produce a satisfactory effluent. If the permittee fails to adopt such remedial measures within the time specified by the DEP, the right to discharge herein granted shall, upon notice by the DEP, cease and become null and void.
4. No stormwater from pavements, area ways, roofs, foundation drains, or other sources shall be admitted to the sanitary sewers associated with the herein approved discharge.
5. The approval herein given is specifically made contingent upon the permittee acquiring all necessary property rights by easement or otherwise, providing for the satisfactory construction, operation, maintenance, and replacement of all sewers or sewerage structures associated with the herein approved discharge in, along, or across private property, with full rights of ingress, egress and regress.
6. If there is a change in ownership of this facility or in permittee name, an application for transfer of permit must be submitted to the DEP.
7. The permittee will ensure that applied chlorine dosages, used for disinfection or other purposes, are optimized to the degree necessary such that the total residual chlorine (TRC) in the discharge effluent does not cause an adverse stream impact. In doing so, the permittee shall consider relevant factors affecting required chlorine dosage, such as wastewater characteristics, mixing and contact times, desired result of chlorination, and expected impact on the receiving water body. The TRC data shall be recorded daily and maintained at the facility.

If the DEP determines or receives documented evidence that levels of TRC in the permittee's effluent are causing adverse water quality impacts in the receiving water, the permittee shall be required to institute necessary additional steps to reduce or eliminate such impact.

8. Collected screenings, slurries, sludges, and other solids shall be handled and disposed of in compliance with 25 Pa. Code, Chapters 271, 273, 275, 283, and 285 (relating to permits and requirements for landfilling, land application, incineration, and storage of sewage sludge), Chapters 262, 263, and 264 (related to permits and requirements for landfilling and storage of hazardous sludge) and applicable Federal Regulations, the Federal Clean Water Act, RCRA, and their amendments.
9. The DEP may identify and require certain discharge specific data to be submitted before the expiration date of this permit. Upon notification by the DEP, the permittee will have 12 months from the date of the notice to provide the required data. These data, along with any other data available to the DEP, will be used in completing the Watershed TMDLWLA Analysis and in establishing discharge effluent limits. In the event that DEP requires the submission of data pursuant to this condition, the permittee shall have the right to appeal or otherwise contest the requirement.

10. The CBOD₅ in the raw wastewater shall be reduced by at least 89.25 percent as a monthly average in accordance with the requirements of the Delaware River Basin Commission (DRBC) for Zone 4 of the Delaware Estuary. The discharge will not be considered in violation of the DRBC requirements during the months when average monthly effluent sewage temperatures are below 59°F and the facility is in compliance with both a minimum of 85 percent CBOD₅ removal and the total discharge does not exceed more than ⅔ of the currently permitted average monthly CBOD₅ mass loading (lb/day).
11. In addition to meeting the wasteload allocation requirement, the facility must be operated at all times to comply with DRBC regulations.
12. The permittee shall submit the results of acute whole effluent toxicity testing with their next NPDES application, according to 40 C.F.R. 122.21(j)(5). The permittee shall submit the results of a minimum of four quarterly tests, from the year preceding the submission of the application. The permittee shall obtain the appropriate biomonitoring protocol for the testing from the DEP's Regional Office. The dilution series for the testing shall be 100, 50, 25, 12.5, and 6.25 percent, unless modified in writing by the DEP.
13. The facility shall be operated under the charge of a responsible operator(s) certified under the Pennsylvania Water and Wastewater Systems Operations Certification Act (Act 11). The operator(s) shall comply with the continuing education requirements required under the regulations and guidelines related to Act 11.
14. Instantaneous maximum limitations are imposed to allow for a grab sample to be collected by the appropriate regulatory agency to determine compliance. The permittee does not have to monitor for the instantaneous maximum limitation except for the parameters pH, total residual chlorine, and fecal coliform. However, if grab samples are collected for parameters normally monitored through composite sampling, the results must be reported.
15. REQUIREMENTS APPLICABLE TO STORMWATER OUTFALLS
 - A. Prohibition of Non-Stormwater Discharges
 1. Except as provided in A.2, all discharges to stormwater Outfall 002 shall be composed entirely of stormwater and allowable non-stormwater as specified in A.2 below.
 2. The following non-stormwater discharges may be authorized, provided the discharge is in compliance with D.2.b: discharges from fire fighting activities; fire hydrant flushings, potable water sources, including waterline flushings, irrigation drainage, lawn watering, routine external building washdown which does not use detergents or other compounds, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, air conditioning condensate, springs, uncontaminated groundwater, and foundation or footing drains where flows are not contaminated with process materials such as solvents.
 - B. Spills

This permit does not authorize the discharge of any polluting substances resulting from an on-site spill. Such spills shall be controlled through proper implementation of a Preparedness, Prevention, and Contingency (PPC) Plan as stated in Section D below.
 - C. This permit does not authorize any discharge (stormwater or non-stormwater) containing any pollutant that may cause or contribute to an impact on aquatic life or pose a substantial hazard to human health or the environment due to its quantity or concentration.

D. Preparedness, Prevention, and Contingency Plans

1. Development of Plan

Operators of facilities shall have developed a PPC Plan in accordance with 25 Pa. Code Section 91.34 and the "Guidelines for the Development and Implementation of Environmental Emergency Response Plans." The PPC Plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the facility. In addition, the PPC Plan shall describe the Best Management Practices (BMPs) that are to be used to reduce the pollutants in stormwater discharges at the facility ensuring compliance with the terms and conditions of this permit. The PPC Plan shall be completed within 90 days from the permit effective date.

2. Non-stormwater Discharges

a. The PPC Plan shall contain a certification that the discharge has been tested or evaluated for the presence of non-stormwater discharges. The certification shall include the identification of potential significant sources of non-stormwater at the site, a description of the results of any test and/or evaluation for the presence of non-stormwater discharges, the evaluation criteria or testing methods used, the date of any testing and/or evaluation, and the on-site drainage points that were directly observed during the test. Such certification may not be feasible if the facility operating the stormwater discharge does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the PPC Plan shall indicate why the certification was not feasible. A discharger that is unable to provide the certification must notify the DEP within 90 days of the effective date of this permit.

b. Except for flows from fire fighting activities, sources of non-stormwater listed in A.2. (authorized non-stormwater discharges) that are combined with stormwater discharges must be identified in the Plan. The Plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge.

3. Special Requirements for SARA Title III, Section 313 Facilities

a. Facilities subject to SARA Title III, Section 313 shall include in the PPC Plan a description of releases to land or water of Section 313 water priority chemicals that have occurred within the last three years. Each of the following shall be evaluated for the reasonable potential for contributing pollutants to run off: loading and unloading operations, outdoor storage activities, outdoor manufacturing or processing activities, significant dust or particulate generating process, and on-site waste disposal practices. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with stormwater; and history of significant leaks or spills of toxic or hazardous pollutants.

- b. **Engineering Certification.** No stormwater PPC Plan for facilities subject to SARA Title III, Section 313 requirements for chemicals that are classified as "Section 313 water priority chemicals" shall be effective unless it has been reviewed by a Registered Professional Engineer and certified to by such Professional Engineer. A Registered Professional Engineer shall recertify the PPC Plan every year thereafter. This certification may be combined with the required annual evaluation in D.4. By means of these certifications, the engineer, having examined the facility and being familiar with the provisions of this part, shall attest that the storm water PPC Plan has been prepared in accordance with good engineering practices. Such certification shall in no way relieve the owner or operator of a facility covered by the PPC Plan of the duty to prepare and fully implement such Plan.

4. **Comprehensive Site Compliance Evaluations and Recordkeeping**

Qualified personnel shall conduct site compliance evaluations at least once a year. Such evaluations shall include:

- a. Visual inspection and evaluation of areas contributing to a stormwater discharge for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural stormwater management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the Plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the Plan, such as spill response equipment, shall be made.
- b. Based on the results of the inspection, the description of potential pollutant sources identified in the PPC Plan, and pollution prevention measures and controls identified in the Plan shall be revised as appropriate within 15 days of such inspection and shall provide for implementation of any changes to the Plan in a timely manner, but in no case more than 90 days after the inspection.
- c. A report summarizing the scope of the inspection, using the DEP's Annual Inspection form shall be completed and made available upon request and retained as part of the PPC Plan for at least one year after coverage under this permit terminates.

E. **Stormwater Management Best Management Practices (BMPs)**

The permittee shall implement at least the following BMPs:

- 1. Manage sludge in accordance with all applicable permit requirements; temporarily collect and store sludge in enclosed containers or tanks.
- 2. Store chemicals in secure and covered areas on impervious surfaces away from storm drains.
- 3. For new facilities and improvements: Design wastewater treatment facilities to avoid, to the maximum extent practicable, stormwater commingling with sanitary wastewater.

4. Efficiently use herbicides for weed control; where practicable, investigate use of the least toxic herbicides; do not apply during windy conditions.
5. Do not wash parts or equipment over impervious surfaces that wash into storm drains.
6. Conduct Good Housekeeping Practices.
7. Implement infiltration techniques, including infiltration basins, trenches, dry wells, porous pavements, etc., wherever practicable.

F. Stormwater Sampling and Reporting

1. If stormwater samples are required by this permit, they shall be collected as grab samples during the first 30 minutes, but no later than one-hour of the discharge resulting from a storm event that occurs at least 72 hours from the previously measurable storm event.
2. When the discharger is unable to collect samples due to adverse climatic conditions, the discharger must submit, in lieu of sampling data, a description of why samples could not be collected, including available documentation of the event. This sampling waiver may not be used more than once during a two-year period.
3. Stormwater monitoring results shall be summarized on a DMR form and the DEP's "Additional Information for the Reporting of Stormwater Monitoring" form.
4. When a facility has two or more outfalls that may reasonably be believed to discharge substantially identical effluents, based on a consideration of features and activities within the area drained by the outfall, the permittee may sample one such outfall and report that the quantitative data also applies to the substantially identical outfalls.

16. Laboratory Certification

The Environmental Laboratory Accreditation Act of 2002 requires that all environmental laboratories register with the DEP. An environmental laboratory is any facility engaged in the testing or analysis of environmental samples required by a statute administered by the DEP relating to the protection of the environment or of public health, safety, and welfare.

17. On December 15, 2003, the U.S. EPA, Regions 2 and 3 adopted a Total Maximum Daily Load (TMDL) for PCBs for Zones 2, 3, 4, and 5 of the tidal Delaware River. The TMDL requires that the facilities identified as discharging PCBs to the Delaware River prepare and implement a PCB Waste Minimization and Reduction Program also known as Pollution Minimization Plan (PMP). This facility has been identified as a Group 1 discharger. Two samples each shall be collected during wet weather and dry weather flow from Outfall 001. All samples shall be analyzed utilizing EPA Method 1668 A. Sample collection techniques, identification analytical approaches, and reporting requirements can be found at http://www.state.nj.us/drbc/PCB_info.htm. The permittee shall commence implementation, monitoring, and reporting of the approved PMP. For information on how to develop and implement a PMP, go to the Delaware River Basin Commission (DRBC) website at http://www.state.nj.us/drbc/PMP_info.htm. The monitoring information, reports, and a copy of the PMP shall be submitted to DEP and DRBC at the following addresses:

PA Department of Environmental Protection
Southeast Regional Office
Water Management Program
2 East Main Street
Norristown, PA 19401

Delaware River Basin Commission
Modeling/Monitoring Branch
P.O. Box 7360
West Trenton, NJ 08628

Re 30 (GJE07WQ)269-9I

PRIMARY FACILITY: [REDACTED] WWTP

CLIENT: [REDACTED]	[REDACTED]	001		
ADDRESS: [REDACTED]	PERMIT NUMBER	DISCHARGE NUMBER		
MONITORING PERIOD				
	YEAR	MO	DAY	TO YEAR MO DAY
MUNICIPALITY: [REDACTED]				
COUNTY: [REDACTED]				

Southeast Region
Facsimile

NOTE: Read instructions before completing this form

Parameter		QUANTITY OR LOADING			QUALITY OR CONCENTRATION			NO. EX	FREQUENCY OF ANALYSIS	SAMPLE TYPE
		MONTHLY AVERAGE	WEEKLY AVERAGE	UNITS	INST. MINIMUM	MONTHLY AVERAGE	INST. MAXIMUM			
FLOW	Sample Measurement				XXXX	XXXX	XXXX			
	Permit Requirement	REPORT MONTHLY AVERAGE	REPORT DAILY MAXIMUM	MGD	XXXX	XXXX	XXXX	XXXX		CONTINUOUS METER
pH	Sample Measurement	XXXX	XXXX			XXXX				
	Permit Requirement	XXXX	XXXX	XXXX	6.0	XXXX	9.0	STD UNITS		DAILY GRAB
CBOD ₅	Sample Measurement				XXXX					
	Permit Requirement	183	275	LB/DAY	XXXX	16	24 WEEKLY AVG.	MG/L		2/WEEK 24 HC
CBOD ₅ PERCENT REMOVAL	Sample Measurement	XXXX	XXXX		XXXX		XXXX			
	Permit Requirement	XXXX	XXXX	XXXX	XXXX	>89.25	XXXX	%		2/WEEK CALCULATE
TOTAL SUSPENDED SOLIDS	Sample Measurement				XXXX					
	Permit Requirement	350	525	LB/DAY	XXXX	30	45 WEEKLY AVG.	MG/L		2/WEEK 24 HC
FECAL COLIFORM	Sample Measurement	XXXX	XXXX		XXXX					
	Permit Requirement	XXXX	XXXX	XXXX	XXXX	200 GEOMETRIC MEAN	1,000	# COL/100 ML		2/WEEK GRAB
TOTAL RESIDUAL CHLORINE	Sample Measurement	XXXX	XXXX		XXXX					
	Permit Requirement	XXXX	XXXX	XXXX	XXXX	0.5	1.6	MG/L		DAILY GRAB
CBOD ₂₀	Sample Measurement		XXXX		XXXX	XXXX	XXXX			
	Permit Requirement	365	XXXX	LB/DAY	XXXX	XXXX	XXXX	XXXX		2/WEEK 24 HC

NAME/TITLE PRINCIPAL EXECUTIVE OFFICER	I CERTIFY UNDER PENALTY OF LAW THAT I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED HEREIN AND BASED ON MY INQUIRY OF THOSE INDIVIDUALS IMMEDIATELY RESPONSIBLE FOR OBTAINING THE INFORMATION, I BELIEVE THE SUBMITTED INFORMATION IS TRUE, ACCURATE AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT SEE 18 U.S.C. §1001 AND 33 U.S.C. §1319. (Penalties under these statutes may include fines up to \$10,000 and or maximum imprisonment of between 6 months and 5 years)	SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	TELEPHONE	DATE
			AREA CODE NUMBER	YEAR MO DAY

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here) PERMIT EXPIRES July 31, 2013 . SUBMIT RENEWAL BY January 31, 2013

**SAMPLE GENERAL PERMIT
FACT SHEET**



GENERAL PERMIT PAG-02 FOR COVERAGE UNDER GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES

FACT SHEET

EXECUTIVE SUMMARY

Federal regulations require earth disturbance activities that will result in stormwater discharges from construction activities to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) Permit. In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*, the Department of Environmental Protection (Department) provides general permit coverage to discharge stormwater to surface water(s) from a site with greater than or equal to one (1) acre of earth disturbance. These discharges are subject to the Department's enclosed PAG-02 which incorporates all effluent limitations, monitoring and reporting requirements, and other terms, conditions, criteria and special requirements for the discharge of stormwater associated, in whole or in part, with construction activity, as defined in this general permit, to surface waters of this Commonwealth, including through municipal separate storm sewers and non-municipal separate storm sewers. Authorization to discharge is subject to the implementation of the plans and additional associated information submitted as part of the Notice of Intent.

General Permit PAG-02 provides a simplified process to meet both the federal and state requirements. In some cases, such as where an applicant is not eligible for general permit coverage because the proposed activity discharges to a "Special Protection" watershed, an individual permit is needed. See "activities that are not eligible" for a complete list.

LENGTH OF THE PERMIT

The Department is reissuing the NPDES General Permit for Stormwater Discharges Associated with Construction Activities (PAG-02, 2012 amendment) for five years from the effective date.

FEES

The revised Chapter 102 Erosion and Sediment Control regulations including post construction stormwater management became effective on November 19, 2010. Under the revised regulations, application fees of \$500 for general permits and \$1500 for individual permits plus a \$100 disturbed acreage fee apply to all new and all renewal notice of intent applications.

WHO CAN USE GENERAL PERMIT PAG-02?

This permit applies to persons proposing earth disturbance activities, other than agricultural plowing and tilling and animal heavy use areas, timber harvesting activities, road maintenance activities, or oil and gas exploration activities that disturb five (5) or more acres, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves one (1) or more acres of earth disturbance.

WHAT ACTIVITIES ARE NOT ELIGIBLE TO USE THE PERMIT?

- (1) Discharges to waters, including wetlands, with a designated or existing use of High Quality or Exceptional Value pursuant to 25 Pa. Code Chapter 93 (relating to Water Quality Standards);
- (2) Discharges which contain hazardous pollutants, toxics, or any other substance which - because of its quantity, concentration, or physical, chemical, or infectious characteristics - may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into surface waters of this Commonwealth;
- (3) Discharges which individually or cumulatively have the potential to cause significant adverse environmental impact;
- (4) Discharges to waters for which NPDES general permit coverage is prohibited under 25 Pa. Code Chapter 92a (relating to NPDES permitting, monitoring and compliance);

- (5) Discharges which are not, or will not be, in compliance with any of the terms or conditions of this general permit;
- (6) Discharges for which the responsible party (person) has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, and schedule of compliance or order issued by the Department or authorized conservation district;
- (7) Discharges subject to categorical point source effluent limitations promulgated by EPA for categories other than construction or post construction;
- (8) Discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards;
- (9) Discharges from construction activities for which the Department requires an Individual NPDES permit to ensure compliance with the Clean Water Act, the Clean Streams Law, or rules and regulations promulgated thereto; or where a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
- (10) Discharges associated with coal mining or noncoal mining activities pursuant to the Department's regulations at 25 Pa. Code Chapters 77 and 86-90;
- (11) Discharges associated with a construction activity that may adversely affect a Pennsylvania or federal endangered or threatened species or its critical habitat;
- (12) Discharges from a site where other point source(s) require the issuance of an Individual NPDES permit;
- (13) 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 unless an analysis is completed which documents that the discharge will neither cause nor contribute to an impairment of the receiving water;
- (14) Discharges of pollutants of concern to waters for which there is a Total Maximum Daily Load (TMDL) established or approved by EPA including the Chesapeake Bay 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;
- (15) Discharges to MS4 and CSO municipal systems without the written consent of the MS4 or CSO permit holder unless those discharges result in no net change (pre-condition to post condition) in volume or rate or water quality;
- (16) Discharges of (a) wastewater from washout of concrete, unless managed by an appropriate control; (b) wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials; (c) fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and (d) soaps or solvents used in vehicle and equipment washing.

WHAT ARE THE PERMIT REQUIREMENTS?

- (1) Persons proposing to discharge stormwater associated with earth disturbance activities (other than agricultural plowing or tilling, animal heavy use areas, timber harvesting, road maintenance, or oil and gas activities) of one (1) acre or more of earth disturbance must apply for an NPDES permit. Also eligible persons proposing to expand the scope of previously authorized earth disturbance activity which discharges stormwater, must apply for a modification to the permit. Persons who wish to be covered by this general permit must submit an administratively complete and technically sound Notice of Intent (NOI) to the Department or authorized conservation district and receive authorization from the Department or authorized conservation district prior to commencing the construction activity. The NOI shall be filed in accordance with the detailed instructions specified in the NOI instruction package.
- (2) Operators of all construction activities shall develop, implement, and maintain E&S and Post Construction Stormwater Management (PCSM) Best Management Practices (BMPs) and other pollution prevention measures required by this permit to minimize accelerated erosion and sedimentation and stormwater runoff before, during, and after construction activities.

- (3) E&S BMPs shall be designed and implemented to meet the standards and specifications identified in the Department's *Erosion and Sediment Pollution Control Manual*, No. 363 2134 008, as amended and updated, or an approved alternative, when legally authorized.
- (4) PCSM BMPs shall be designed and implemented to meet the standards and specifications identified in the Department's Pennsylvania Stormwater Best Management Practices Manual, No. 363-0300-002, as amended and updated, or an approved alternative, when legally authorized.
- (5) The E&S Plan, PCSM Plan, and Preparedness, Prevention and Contingency (PPC) Plan shall identify appropriate BMPs that will be implemented to ensure that existing and designated uses of surface water are protected and maintained. The E&S and PCSM Plans must be reviewed and approved by the Department or the delegated conservation district prior to commencing the construction activity.
- (6) The permittee or co-permittee shall develop and implement the E&S Plan, PPC Plan, PCSM Plan, and have all of the plans and other documents required by this permit maintained at the site and available for review by the Department or conservation district.

EROSION AND SEDIMENT CONTROL PLANS

- a. Unless otherwise authorized by the Department or conservation district after consultation with the Department, earth disturbance activities shall be planned and implemented to the extent practicable in accordance with the following:
 - (i) Minimize the extent and duration of earth disturbance.
 - (ii) Maximize protection of existing drainage features and vegetation.
 - (iii) Minimize soil compaction.
 - (iv) Utilize other measures or controls that prevent or minimize the generation of increased stormwater runoff.
- b. An E&S Plan shall be prepared and implemented in accordance with the requirements of 25 Pa. Code Chapter 102 and by a person trained and experienced in erosion and sediment control methods and techniques applicable to the size and scope of the project being designed. Each E&S Plan must be submitted to and approved by the Department or authorized conservation district. The BMPs shall be designed to minimize the potential for accelerated erosion and sedimentation in order to protect, maintain, reclaim, and restore water quality and existing and designated uses. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual*, No. 363-2134-008, as amended and updated. The manual is available from the Department or authorized conservation district or can be downloaded from the Department's website at www.dep.state.pa.us. E&S Plans and BMPs, and revisions thereto, which meet the requirements of 25 Pa. Code Chapters 93, 96 (relating to water quality standards implementation), and 102, are conditions of this permit and are incorporated by reference.
- c. E&S Control Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law and 25 Pa. Code Chapter 92a of the Department's regulations. The owner or operator of a facility with stormwater discharges covered by this permit shall make E&S Plans available to the public upon request. E&S Plans must be made available at the site of the construction activity at all times.
- d. The approved E&S plan, including the staging of earth disturbance activities and maintenance requirements, must be followed.
- e. Upon the installation or stabilization of all perimeter sediment control BMPs and at least three (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.
- f. The E&S Plan must be consistent with the assumptions and requirements of any assigned Wasteload Allocations (WLAs) as set forth in any applicable Total Maximum Daily Loads (TMDLs) established for the receiving waters.

POST CONSTRUCTION STORMWATER MANAGEMENT (PCSM) PLANS

- a. The management of post construction stormwater shall be planned and conducted to the extent practicable in accordance with the following;
 - (i) Preserve the integrity of stream channels and maintain and protect the physical, biological, and chemical qualities of the receiving stream.
 - (ii) Prevent an increase in the rate of stormwater runoff.
 - (iii) Minimize any increase in stormwater runoff volume.
 - (iv) Minimize impervious areas.
 - (v) Maximize the protection of existing drainage features and existing vegetation.
 - (vi) Minimize land clearing and grading.
 - (vii) Minimize soil compaction.
 - (viii) Utilize other structural or nonstructural BMPs that prevent or minimize changes in stormwater runoff.
- b. A PCSM Plan shall be prepared and implemented in accordance with the requirements of 25 Pa. Code Chapter 102 and by a person trained and experienced in PCSM design methods and techniques applicable to the size and scope of the project being designed. The management of post construction stormwater shall be planned and conducted in accordance with 25 Pa. Code §102.8. Various BMPs and their design standards are listed in the *Pennsylvania Stormwater Best Management Practices Manual*, No. 363-0300-002, as amended and updated. The manual is available from the Department or authorized conservation district or can be downloaded from the Department's website at www.dep.state.pa.us. Each PCSM Plan must be submitted to the Department or authorized conservation district. The PCSM plan must employ stormwater management BMPs to control the volume, rate, and water quality of the postconstruction stormwater runoff so as to protect and maintain the chemical, physical, biological properties, and existing and designated uses of the waters of this Commonwealth.
- c. PCSM Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law and 25 Pa. Code Chapter 92a of the Department's regulations. The owner or operator of a facility with stormwater discharges covered by this permit shall make PCSM Plans available to the public upon request. The PCSM Plans must be made available at the site of the construction activity at all times.
- d. A licensed professional or their designee shall be present onsite and be responsible for oversight of critical stages of implementation of the approved PCSM Plan. The licensed professional will be responsible to provide a final certification, pursuant to 25 Pa. Code § 102.8(l) along with the required NOT and record drawings, indicating that the project site was constructed in accordance with the approved or modified PCSM Plan.
- e. The PCSM Plan must be consistent with the assumptions and requirements of any available WLAs as set forth in any applicable TMDLs established for the receiving waters.
- f. The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from pipelines or other similar utility infrastructure may be used to satisfy the PCSM requirements if the PCSM reclamation, or restoration plan meets the requirements of 25 Pa. Code § 102.8(b), (c), (e), (f), (h), (i) and (l), and when applicable, (m).

PREPARDNESS, PREVENTION AND CONTINGENCY (PPC) PLANS

If toxic, hazardous, or other polluting materials will be on site, the permittee or co-permittee(s) must develop a PPC Plan for use while those materials are on site in accordance with 25 Pa. Code § 91.34 (relating to activities utilizing pollutants). The PPC Plan shall identify areas which may include, but are not limited to, waste management areas, raw material storage areas, fuel storage areas, temporary and permanent spoils storage areas, maintenance areas, and any other areas that may have the potential to cause noncompliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, concrete washwaters, etc. BMPs shall be developed and implemented for each identified area. The PPC Plan shall be maintained on site at all times and shall be made available for review at the Department's or authorized conservation district's request.

SUMMARY OF THE PERMIT REVISIONS FOR PAG-02, 2012 Amendment

Coverage of Permit – The approval to discharge in accordance with the terms and conditions of this permit will be valid for a period of five years from the date of the approval of coverage issued.

Threshold of earth disturbance for which permit coverage must be obtained – The federal permitting threshold requirements have been incorporated into the revised Chapter 102 regulations reducing the threshold for permit coverage from 5 acres or greater and 1 to 5 acres with a point source to 1 acre or greater.

Areas for which coverage does not apply – Animal heavy use areas and oil and gas activities have been added as areas where permit coverage does not apply.

Definitions – New definitions added include: administrator, antidegradation best available combination of technologies (ABACT), critical stages, licensed professional, long-term operation and maintenance, MCM, MS4, nondischarge alternative, post construction stormwater, project site, riparian buffer, riparian forest buffer, and Total Maximum Daily Load (TMDL).

Notice of Intent (NOI) Submittal – Citations were added for conditions 3 and 4 referencing relevant sections of 25 Pa. Code Chapter 102.

Activities not Eligible for Coverage under this Permit –

Paragraph (b)(1) was modified to include wetlands.

Paragraph (b)(7) was added which states that discharges subject to categorical point source effluent limitations promulgated by EPA for categories other than construction or post construction are not eligible for coverage under PAG-02.

Paragraph (b)(13) was modified which states that PAG-02 may not be used for 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 unless there is an analysis completed which documents that the discharge will neither cause nor contribute to the impairment of the receiving water.

Paragraph (b)(15) was added which states that discharges to MS4 and CSO municipal systems may not be authorized without the written consent of the MS4 or CSO entity unless the discharge results in no net change in rate, volume and water quality.

Paragraph (b)(16) was added to include those categories that are excluded from coverage in 40 C.F.R. 450.21(e).

Paragraph (e) was added which states that the approval of coverage is granted based upon information provided by the applicant in the NOI. All information provided by the applicant is incorporated by reference as part of the approval. Any conflicts between the permit and the NOI will be resolved by the more environmentally protective of the two.

Insufficient Funds – This section was added to address situations in which a permit has been authorized and the funds for the permit application fees are found to be insufficient during review or at a later date. In this case, the permit will be suspended until sufficient funds are received. Activity at the site must cease and the site will be temporary stabilized. If funds are not received, the permit authorization will be revoked.

Notice of Termination (NOT) – Termination of Coverage

This section was added to list the information that must be provided as a prerequisite for permit termination. The permittee will be responsible for compliance with the permit terms and conditions, including long-term operation and maintenance of the PCSM BMPs. The Department or authorized conservation district will conduct a follow-up inspection and approve or deny the NOT within 30 days of its submittal.

Final Certification – Language was added regarding the new requirement in the revised Chapter 102 to have a licensed professional on site during critical stages of construction and to provide a written certification statement with the filing of the NOT. Permittees must also retain a copy of the record drawings for the project site.

Part A. Effluent Limitations, Monitoring and Reporting Requirements

Effluent Limitations - BMPs – An item incorporating the federal effluent limitations guidelines by reference was added.

Monitoring, Inspection and Reporting Requirements - Licensed Professional Oversight of Critical Stages

– This item was added to address the revised Chapter 102 requirement that a licensed professional must be on site and responsible during critical stages of implementation. Critical stages include structurally engineered BMPs, underground BMPs, and other BMPs as deemed appropriate by the Department or authorized conservation district.

Monitoring, Inspection and Reporting Requirements - Noncompliance Reporting

– Language was added to the phrase “during an inspection or any other time” to include the language “the permittee becomes aware of any incident causing or threatening pollution as described in 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution), as required by 25 Pa. Code § 92a.41(b) (relating to conditions applicable to all permits) has resulted in a period of noncompliance”. This is to clarify times when the Department must be notified of noncompliance.

Monitoring, Inspection and Reporting Requirements - Availability of Reports

– This section was added to assure that reports and other information will be available for public inspection at the appropriate Department or conservation district.

Part B. Standard Conditions

Management Requirements - Reduction, Loss or Failure of BMP

– Language was added to this section: “These actions should be undertaken to ensure that there are no pollutional discharges to the waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause or source of the reduction, loss or failure is within or beyond the control of the permittee or co-permittee”.

Management Requirements – Removed sections “Termination of Coverage” and “Completion Certificate and Final Plans” as these two sections are covered in other areas throughout the permit.

Part C. Other Conditions

Preparedness, Prevention and Contingency (PPC) Plans

– Added in the citation for 25 Pa. Code § 91.34. Added concrete washwaters to the list of toxic or hazardous substances that must be addressed in the plan.

Erosion and Sediment Control Plans

– This section has been modified to reflect additional requirements in Chapter 102 related to general E&S planning and design principles.

Post Construction Stormwater Management Plans – This section has been modified to reflect additional requirements in Chapter 102 as follows:

- a. General PCSM planning and design principles.
- d. A licensed professional or a designee shall be present onsite and be responsible for oversight of critical stages of implementation of the approved PCSM plan. The licensed professional will be responsible to provide a final certification, pursuant to 25 Pa. Code § 102.8(l) along with the required NOT and record drawings, certifying that the project site was constructed in accordance with the approved or modified PCSM plan.
- f. The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from pipelines or other similar utility infrastructure may be used to satisfy the PCSM requirements if the PCSM reclamation or restoration plan meets the requirements of 25 Pa. Code Chapter 102.8(b), (c), (e), (f), (h), (i), and (l), and when applicable, (m).

Stabilization - Language has been added to reflect the change in 25 Pa. Code § 102.22 that requires temporary stabilization to be completed within 4 days of the temporary cessation of earth disturbance activities.

Long-term Operation and Maintenance – This section was added to reflect additional requirements in 25 Pa. Code § 102.8 as follows:

- a. The permittee or co-permittee shall be responsible for long-term operation and maintenance of PCSM BMPs unless a different person is identified in the NOT and that person has agreed to long-term operation and maintenance of the PCSM BMPs.
- b. For any property containing a PCSM BMP, the permittee or co-permittee shall record an instrument with the Recorder of Deeds which will assure the disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM BMP, provide for necessary access related to the long-term operation and maintenance of the PCSM

BMPs, and provide notice that the responsibility for long-term operation and maintenance of the PCSM BMPs is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees, and provide proof of filing with the NOT under 25 Pa. Code § 102.7(b)(5).

- c. For Commonwealth owned property, a covenant that runs with the land is not required until the transfer of the land containing a PCSM BMP occurs. Upon transfer of the Commonwealth-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m)(3). An agency of the federal government shall not be required to make or record a declaration of covenants on its property until transfer of the property to a non-federal or non-Commonwealth entity or individual. Upon transfer of the Commonwealth-owned or federally-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m)(3).
- d. The person responsible for performing long-term operation and maintenance may enter into a written agreement with another person, including a conservation district, nonprofit organization, municipality, authority, private corporation, or other person, to transfer the responsibility for PCSM BMPs or to perform long-term operation and maintenance and provide notice thereof to the Department.
- e. A permittee or co-permittee that fails to transfer long-term operation and maintenance of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term operation and maintenance of the PCSM BMPs located on the property.
- f. Unless a later date is approved by the Department in writing, the permittee shall record an instrument as required under 25 Pa. Code § 102.8(m)(2) and condition b above within 45 days from the date of issuance of this permit or authorization. Unless the Department authorizes a different procedure, the long-term operation and maintenance plan shall be recorded along with the instrument. Unless a later date is approved by the Department in writing, the permittee shall provide the conservation district and the Department with the date and place of recording along with a reference to the docket, deed book or other record, within 90 days from the date of issuance of this permit or authorization.
- g. Unless an alternative process is approved by the Department in writing, upon the sale or other transfer of any parcel, lot, road or other real property included within the permit boundary, the permittee shall notify the purchaser, grantee, or transferee of the long-term PCSM BMP operation and maintenance requirements. The permittee shall expressly identify the PCSM BMPs on each property, the schedule for inspection and reporting, the person or entity responsible for long-term operation and maintenance of the PCSM BMPs and how access to the BMPs will be achieved and shall obtain approval from the purchaser, grantee or transferee. Unless a later date is approved by the Department in writing, the permittee shall provide the conservation district and the Department with notice of compliance with this section within 45 days from the date of transfer of the property and at the time the permittee files a Notice of Termination.

Voluntary Riparian Forest Buffers – This section was added to reflect additional requirements in § 102.14 (relating to riparian buffer requirements) as follows:

Persons that protect, convert, or establish a new riparian forest buffer that meets the requirements of 25 Pa. Code § 102.14(b) may qualify for benefits under 25 Pa. Code §102.14(e)(1) and (2) relating to the antidegradation presumption and trading or offsetting of credits.

Municipal Separate Storm Sewer Systems (MS4s) MCM Fulfillment – This section was added to reflect coordination between the MS4 program and the construction stormwater program. This allows MS4s subject to PAG-13 coverage requirements to choose to rely on the Chapter 102 permitting program to satisfy MCM4 and part of MCM5 permit obligations related to construction stormwater and post construction stormwater.

Public Notices for Applications Including an Offset – This section was added to allow for a public notice process for PAG-02 permits proposing an offset. A 30 day public comment period is proposed for permit(s) that involve proposed offsets of either stormwater or riparian buffers.

PUBLIC COMMENTS ADDRESSED

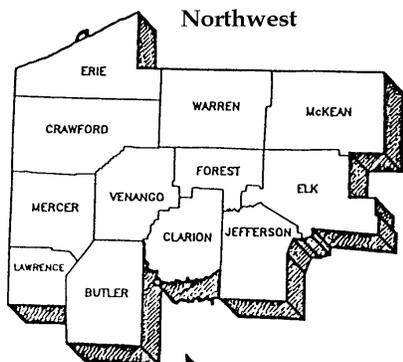
The Department conducted a 30-day comment period starting August 18, 2012 and ending September 17, 2012 to solicit comments from the public on the draft PAG-02. Due to a technical issue, the draft permit was not posted immediately so, to address the need for adequate time for public comment, the Department extended the comment period until October 2, 2012. Sixty (60) public comments were received from a total of five (5) commenters. The comment and response document will be posted in the Department's eLibrary along with the final PAG-02 and factsheet upon its publication as final in the *Pennsylvania Bulletin*.

For more information,

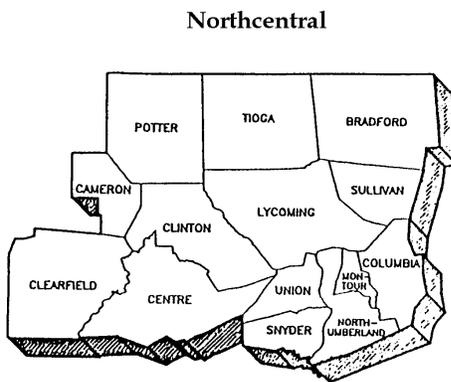
Call the DEP regional office in your area or contact:

Department of Environmental Protection
Bureau of Waterways Engineering and Wetlands
Division of Wetlands, Encroachments and Training
400 Market St.
P.O. Box 8460
Harrisburg, PA 17105
717-787-3411

DEP REGIONAL OFFICES



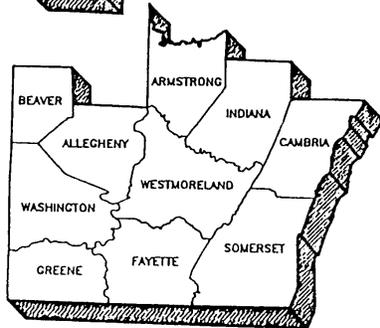
Northwest



Northcentral



Northeast



Southwest



Southcentral



Southeast

Southeast Region

2 East Main Street
Norristown, PA 19401
484-250-5970

Counties: Bucks, Chester, Delaware, Montgomery and Philadelphia

Southwest Region

400 Waterfront Drive
Pittsburgh, PA 15222-4745
412-442-4000

Counties: Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland

Southcentral Region

909 Elmerton Ave.
Harrisburg, PA 17110
717-705-4700

Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York

Northwest Region

230 Chestnut St.
Meadville, PA 16335-3481
814-332-6984

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren

Northeast Region

2 Public Square
Wilkes-Barre, PA 18701-1915
570-826-2511

Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming

Northcentral Region

208 W. Third St., Suite 101
Williamsport, PA 17701
570-327-3636

Counties: Bradford, Cameron, Clearfield, Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union

HOW-TO GUIDES

**Step-by-Step Instructions on How to Use the Most
Common Federal and State Websites**

HOW TO USE eFACTS

E-facts can be used to find out a plethora of information about a facility. With just a few identifiers, you can, among other things:

- Find out whether facility has an NPDES permit
- Figure out if there is a permit pending
- Review inspections and violations at the facility
- Search for a Permit Authorization or Denial

If you have the *name of the facility*, or the *name of the city and the zip code*, use DEP's eFACTS web site to find its Permit Number and Facility Number:

FIRST, point your computer's browser to the eFACTS main page using this web address: <http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx>

NEXT, click on the "name search" link, as in the figure below:



NEXT, in the appropriate spaces on the "Name Search Screen" enter the name of the facility, or the city and zip code where the facility is located. Then click the "Search" button:

http://www.ahs.dep.pa.gov/eFACTSWeb/criteria_name.aspx

THEN, if you have entered a *facility name*, the page will display any NPDES permits for that facility.

If you have entered a *city and zip code*, the page will display a list of all the permitted facilities in the zip code and the type of permit (individual or general) each is discharging under. The above search yields the list of facilities shown here:



Click the link in this column for how you want to search

NEXT, in the appropriate spaces on the “Facility Search Screen” enter the Facility ID Number and select “Clean Water” from the “status” pulldown menu, as below. Then click the “Search” button.

Enter the search criteria here—you have a few options, including searching by county.

Once you click “Search,” you will be provided with information about the permits that facility is discharging under.

Client Search Results				Sort Order: Client Name - ascending
Client Name	Type	EIN#	Status	
4 PAINS VET CLINIC (268148) 19 E SPRINGFIELD RD SPRINGFIELD, PA 19064-2542	Other (Non-government)	203819223	Active, Non-Govt	
A JOLO COURT INC (210380) 719 OLD MAPLE RD SPRINGFIELD, PA 19064	Pennsylvania Corporation	233065558	Active, Non-Govt	
ACCURATE TANK TESTING INC (211559) 500 W WOODLAND AVE SPRINGFIELD, PA 19064-2124	Other (Non-government)	223885147	No Longer Does Business w/ DEP, Non-Govt	
AQUER BOY (14191) 111 W LEAHY AVE SPRINGFIELD, PA 19064-2306	Individual		Active, Indiv	
AQUONA JOSEPH (212158) 55 S ROLLING RD SPRINGFIELD, PA 19064-2415	Individual		Active, Indiv	
AJO COURT INC (209788) 504B SAGLE RD SPRINGFIELD, PA 19064-1120	Other (Non-government)	232845223	Active, Non-Govt	
AMAR PETRO INC (224455) 38 N STATE ROAD SPRINGFIELD, PA 19064-1332	Pennsylvania Corporation		Active, Non-Govt	
AMER DENTAL CARE SPRINGFIELD (113415) 891 BALTIMORE PKWY SPRINGFIELD, PA 19064	Pennsylvania Corporation		Active, Non-Govt	
AMER TANK REMOVAL & INSTALLATION INC (172001) PO BOX 318 SPRINGFIELD, PA 19064-0318	Pennsylvania Corporation	232686408	No Longer Does Business w/ DEP, Non-Govt	

<< < 1 of 22 > >> (190 records, 9 per page)

Your search results will appear as a list which includes basic information such as permit type and number.

To search for *Permit Authorizations* using the Authorization ID, Facility ID, Permit Number or three of the other criteria:



FIRST, point your computer's browser to the eFACTS main page using this web address:
<http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx>.

NEXT, click on the "Authorization Search" button from the list on the left of the page:

NEXT, enter the Authorization ID, Facility ID, Permit Number or three of the other criteria listed at the top of the Authorization Search page:

Authorization Search Screen
 Use the criteria below to search for an authorization or to produce a list of Authorizations.

Minimum search criteria: At least three criteria OR a specific Authorization ID, Facility ID, or Permit Number

Authorization ID:

Authorization Type:

Application Type: NPDES Coal Processing Operation
 NPDES Coal Mine
 NPDES GP Pst Pesticides
 NPDES Individual Pst Pesticides
 NPDES Industrial Mineral Mine
 NPDES Pst Stormwater Discharges from Small Multi-Separate Storm Sewer Sys MS4 Individual

County:

Municipality:

Program: **NPDES Pst Stormwater Industrial Site Runoff (Individual)**
 NPDES Stormwater Construction Permit Conserv Dist Co-Permittee
 NPDES Stormwater Construction Pst Conserv Dist Notice of Termination
 NPDES Stormwater Construction Pst Conservation Dist

Date Received:

Facility ID:

Permit Number:

NPDES Stormwater-Construction Permit Notice of Termination
 NPDES Stormwater-Construction Pst Co-Permittee
 New Land Development Plan App Component 1
 New Land Development Plan App Component 2-Commercial
 New Land Development Plan App Component 2-Residential
 New Land Development Plan App Component 3-Commercial
 New Land Development Plan App Component 3-Residential
 New Land Development Plan App Component 3S-Comm Repair
 New Land Development Plan App Component 3S-Residential

You will need more specific information for this search than you needed for facility search.

THEN, once you have entered your information, click the “Search” button. If you are not sure what type of NPDES permit you are seeking, leave that field blank—if you have the other criteria required, the search will bring you results.

HOW TO USE EPA'S ECHO DATABASE

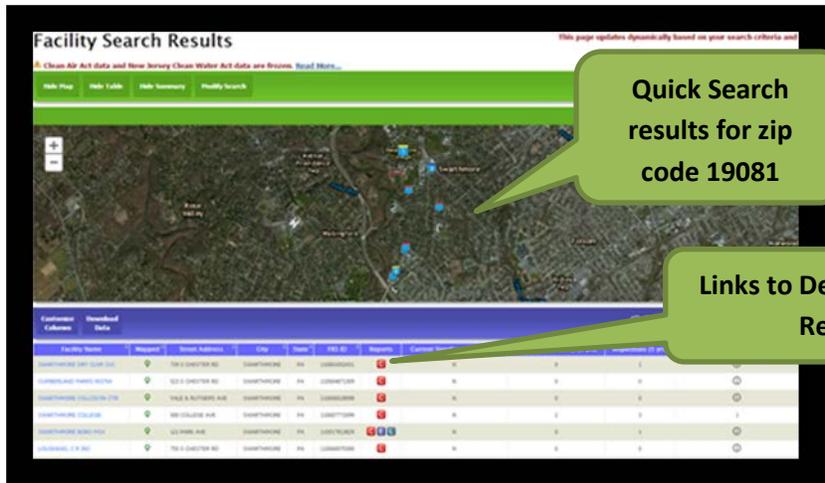
The EPA's Enforcement and Compliance History Online ["ECHO"] database is, like the Pennsylvania DEP's tools above, a way to find facilities with permits using an internet based search tool.

FIRST, point your computer's browser to the ECHO main page using this web address:
<http://echo.epa.gov/?redirect=echo>

The screenshot shows the EPA ECHO website interface. At the top, there is the EPA logo and the text "United States Environmental Protection Agency". Navigation links include "Learn the Issues", "Science & Technology", "Laws & Regulations", and "About EPA". A search bar for "Search EPA.gov" is present. The main heading is "ECHO Enforcement and Compliance History Online". A notification banner states: "You have been redirected from the former ECHO site to the modernized ECHO, now at echo.epa.gov. Please update your bookmarks, and see our [ECHO Modernization Information](#) page to learn about the new ECHO." The central "Search Community" section contains a "Quick Search" field with the placeholder text "Enter city, state and/or zip code" and a "Search" button. Below the search field is a "Tutorial" link with a video camera icon. A callout box points to this link with the text "You may find the tutorial video helpful". To the right of the search section are buttons for "Create Maps", "Analyze Trends", and "Advanced Tools". At the bottom left, there is a "Latest News" section with links to "Version 2.0 of CWA DMR Pollutant Loading Tool Launched", "What's New in ECHO", "ECHO Modernization Information", and "Join the ECHO Listserv". At the bottom center, there are "Help" and "Resources" buttons.

NOTE: if you need detailed assistance using the ECHO site, click on the word "Tutorial" directly under the "Quick Search" field. That will take you to a page with a video demonstration of how to use the ECHO site. There are also links to further assistance with the site to the right of the screen (<http://echo.epa.gov/help/tutorials>)

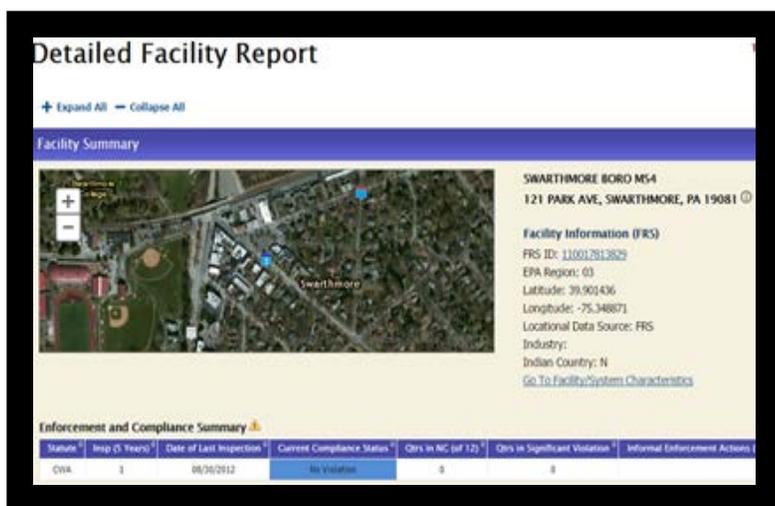
NEXT, if you know the city, state, or zip code of the area where you wish to find a permitted facility, you may enter that information in the field under "Quick Search" near the center of your screen, and click "search." This is the screen that comes up if you enter the zip code "19081:"



The top portion of the screen is a satellite image of the area surrounding the zip code (or city, or state—whichever search criterion you used), while the bottom portion is occupied by a list of the permitted facilities in the area. To the right is a list of popular search statistics, such as: facilities with: current violations; violations in the past three years; formal enforcement actions within the past five years; etc.

NOTE: the ECHO site is used for searching for all types of facilities emitting or discharging pollutants under all types of environmental permits. To find facilities operating under NPDES permits look for those “with CWA Permits” (because the NPDES system is created by the Clean Water Act).

Clicking on the name of the facility or the letter “C” in the red box in the list of facilities below the map will take you to a screen with a “Detailed Facility Report:”



As you can see in the screenshot on the left, the Borough of Swarthmore operates under an NPDES Permit (indicated here as a Clean Water Act Permit). Clicking on the permit number brings you to a page with the details of the particular permit. In this case, Swarthmore is discharging under a general permit.

If you know the facility name or identification number, click on the blue square labeled “Explore Facilities” to the left center of the screen. This will change the search frame to one requesting the facility name or identification number and provide links to types of information about the facility’s compliance. There are also links to more advanced types of searches:



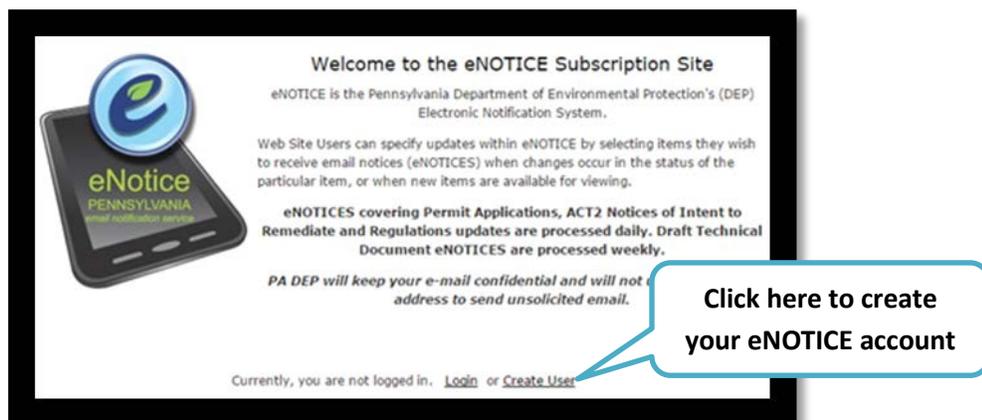
HOW TO USE eNOTICE

Note: eNotice requires that you have an email account in order to create your subscription.

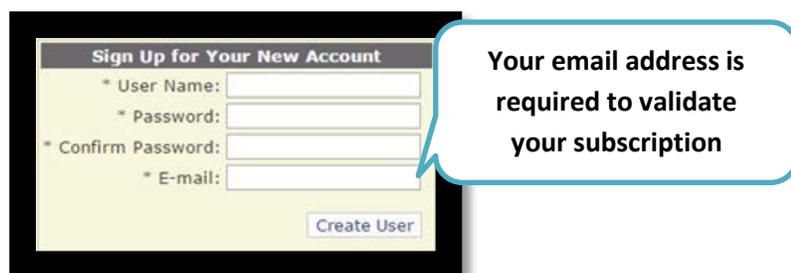
If you want to receive a daily email listing changes to permit applications and draft technical documents sign up for eNotice:

FIRST, use your computer's browser to visit:

<http://www.ahs.dep.pa.gov/eNOTICEweb/>



NEXT, click on the small "Create User" link two-thirds of the way down the screen.



NEXT, in the indicated fields [as in the figure above] enter your desired user name and password for logging into your eNotice account. You will log into your account in the future to tell eNotice which notices you do and don't wish to receive at that time.

THEN, enter the email address to which you want the eNotices sent and click the "Create User" link directly below. The web site has now sent you a confirmation email containing a web link; clicking on this link confirms your new account and allows you to sign up for notices. The email also contains a reminder of your user name and password.

NEXT, you can decide what topics you would like eNotices about:

eNOTICE Subscription Category Types

- DEP Permit Applications**
Receive eNOTICES covering the status of permit applications as they proceed through the DEP permitting process. Permits can be tracked by county, municipality, program or individually.
- DEP Draft Technical Documents**
Receive eNOTICES when new DEP Draft Technical Documents are open for comment by the Public. Entire Document is available for viewing in PDF format.
- DEP Regulations**
Receive eNOTICES concerning the status of DEP regulatory proposals, including notices from the time a regulation is initially developed until it is published as a final rulemaking.
- DEP Land Recycling Act 2 Notices**
Receive eNOTICES concerning the submission of Notices of Intent to Remediate (NIR) under the Land Recycling Act. An NIR demonstrates the intention of a land owner to perform a remedial response action at a contaminated site.

There is no way to narrow the categories beyond these choices. For instance, with this selection you will get one email per day with information about every PA permit application.

Click on the squares to the left of your desired topic and a check mark will appear, as with “DEP Permit Applications” [above].

If you select DEP Permit Applications you will receive eNotices to the email address you provided that look like this:

eNOTICE - Changes to Tracked Permits

ra-epenotice@pa.gov
to me

The following Permit Applications have changed as of Wednesday, January 21, 2015.

Authorization 1001276:
 Authorization # [1001276](#) has completed the following event: Send PA Bull Notice/End Public Comm Prd on 1/19/2015.
 Subfacility ID=1150765 Name=ANHYDROUS AMMONIA STORAGE TANK (30,000 GAL) [eMapPA search](#)
 Subfacility ID=1150749 Name=AUXILIARY BOILER (245 MMBTU/HR) [eMapPA search](#)
 Subfacility ID=1150651 Name=COMBINED CYCLE UNIT #1 (3,147 MMBTU/HR) [eMapPA search](#)
 Subfacility ID=1150745 Name=COMBINED CYCLE UNIT #1 (3,147 MMBTU/HR) [eMapPA search](#)
 Subfacility ID=1150758 Name=COOLING TOWER [eMapPA search](#)
 Subfacility ID=1150753 Name=EMERGENCY DIESEL GENERATOR (2,000 KW) [eMapPA search](#)
 Subfacility ID=1150756 Name=EMERGENCY FIRE PUMP ENGINE (575 BHP) [eMapPA search](#)
 Subfacility ID=1150763 Name=FIRE PUMP DIESEL STORAGE TANK (1,000 GAL) [eMapPA search](#)
 Subfacility ID=1150766 Name=FUGITIVE EMISSIONS [eMapPA search](#)
 Subfacility ID=1150762 Name=GENERATOR DIESEL STORAGE TANK (5,000 GAL) [eMapPA search](#)
 Subfacility ID=1150769 Name=OXIDATION CATALYST 101 [eMapPA search](#)
 Subfacility ID=1150771 Name=OXIDATION CATALYST 102 [eMapPA search](#)
 Subfacility ID=1150767 Name=SCR 101 [eMapPA search](#)
 Subfacility ID=1150770 Name=SCR 102 [eMapPA search](#)
 Subfacility ID=1150764 Name=TURBINE LUBE OIL STORAGE TANKS (3 @ 1,000 GAL) [eMapPA search](#)

Authorization 1020565:
 Authorization # [1020565](#) disposed on 1/16/2015.
 Subfacility ID=1151983 Name=CNC OPERATIONS BAGHOUSE [eMapPA search](#)
 Subfacility ID=1151982 Name=CNC PROCESS (3-CNC MACHINES) [eMapPA search](#)
 Subfacility ID=1151990 Name=MATERIAL STORAGE TANKS (2-8000 GAL TANKS) [eMapPA search](#)
 Subfacility ID=1151981 Name=MOLDING OPERATIONS (3-CELLS, 2- STATIONS/CELL) [eMapPA search](#)

HOW TO USE THE ELELCTRONIC DISCHARGE MONITORING REPORT [EDMR] SYSTEM

To access the Pennsylvania Bulletin online, use your computer's browser to visit:
<http://www.depweb.state.pa.us/portal/server.pt/community/edmr/17879>.

The screenshot shows the 'eDMR Reporting System' page. On the left, there is a sidebar with a search box labeled 'Search eDMR Data'. A callout bubble points to this search box with the text 'Click here to search DMRs'. The main content area features a navigation menu under 'Bureau of Point and Non-Point Source Management Topics'. The 'eDMR' section is expanded, showing links for 'eDMR System Materials' and 'Search eDMR Data'. Another callout bubble points to the 'Search eDMR Data' link with the text 'Search eDMR Data'. The page also includes an 'eDMR Reporting System' section with links for 'eDMR Login' and 'Supplemental Reports', and an 'Important Note' regarding the E2 Electronic Discharge Monitoring Reporting application.

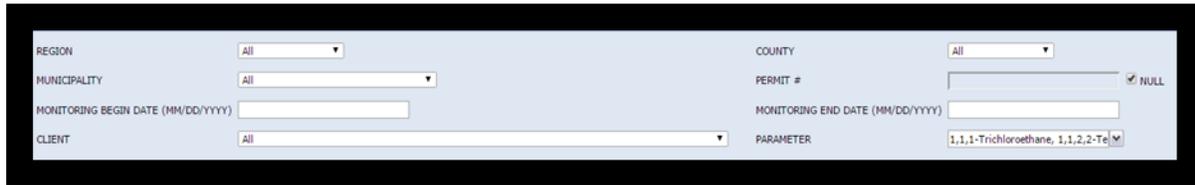
If you wish to search for DMR data, click the “Search eDMR Data” link on the right-hand side of the page, as above. Doing so will take you to the following page:

The screenshot shows the 'Search eDMR Data' page. It contains the following text: 'In 2007 the Pennsylvania Department of Environmental Protection (DEP) launched its [eDMR system](#) for use by NPDES and WQM permittees to enable electronic reporting of Discharge Monitoring Reports (DMRs). DEP has developed a reporting tool for public review of DMR data. Not all permittees are using the eDMR system to submit DMRs, and those that are currently using the system will have started at some point between 2007 and the present. To review DMR data not available through the eDMR reporting website, file reviews of paper DMRs may be scheduled at DEP's [regional offices](#).' Below this is a section titled 'Use the links below to navigate to the eDMR reporting website and to review instructions for generating reports and interpreting the data.' which includes two links: '[eDMR Data Reporting Website](#)' and '[Instructions for Using eDMR Data Reporting Website](#)'. A callout bubble points to the second link with the text 'Instructions for Using eDMR Data Reporting Website'.

If you click on “eDMR Data Reporting Website” you can begin searching for DMR information right away. However, it is a good idea to read and understand the instructions before using the site for the first time. You can read these

instructions [in PDF] by clicking on “Instructions for Using eDMR Data Reporting Website” at the bottom of the screen.

The instructions will make clear what to do with an otherwise very spare search page:



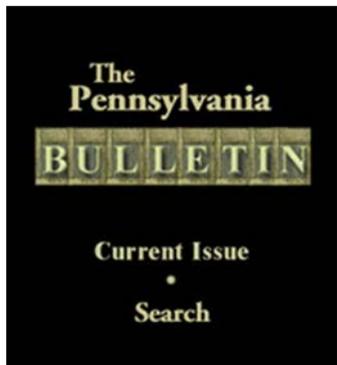
The image shows a search form with the following fields:

REGION	All	COUNTY	All
MUNICIPALITY	All	PERMIT #	<input type="text"/> <input checked="" type="checkbox"/> NULL
MONITORING BEGIN DATE (MM/DD/YYYY)	<input type="text"/>	MONITORING END DATE (MM/DD/YYYY)	<input type="text"/>
CLIENT	All	PARAMETER	1,1,1-Trichloroethane, 1,1,2,2-Te

But once you understand the instructions you have a very helpful tool at your disposal.

HOW TO USE THE PENNSYLVANIA BULLETIN

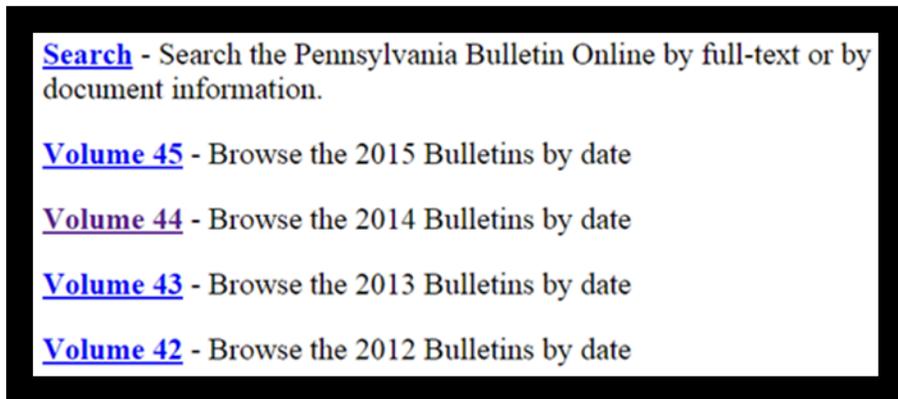
“[T]he Pennsylvania Bulletin, the Commonwealth's official gazette for information and rulemaking . . . [and] includes the following: Statewide and local court rules; the Governor's Proclamations and Executive Orders; Actions by the General Assembly; Rulemakings by State agencies; Proposed Rulemakings by State agencies; and State agency notices.” <http://www.pabulletin.com/index.asp>



To access the Pennsylvania Bulletin online, use your computer's browser to visit:
<http://www.pabulletin.com/index.asp>

NEXT, if you want to browse the most recent happenings, you can click “Current Issue” at the left of the screen and scroll through the updates from the past week by topic. If you are looking for a particular notice, even one from the past, you can click on “Search” instead.

If you click “Search” you will reach the following screen:



THEN, you can search for a particular permit by clicking “Search” once again, or select from one of the volumes from past years by clicking the highlighted volume number.

If you clicked “Search” again on the screen above to find notices about a particular permit, you will see this search form:

Full Text: e.g. "Public Utility" AND safety	<input type="text"/>	
Volume:	All Volume 45 - 2015 Volume 44 - 2014	
Issue Number:	All 1 2	
Page Number:	<input type="text"/>	
Date of Issue: mm/dd/yyyy	Beginning <input type="text"/>	Ending <input type="text"/>
Agency:	All Aging Agriculture	
Document Type:	All Corrective Amendment Correction	
Title/Chapter Affected: separate with comma	Title <input type="text"/>	Chapter <input type="text"/>
Fiscal Note/Doc Number: separate choices with comma	Fiscal <input type="text"/>	Doc # <input type="text"/>

[\[Back\]](#)
[\[Home\]](#)
[\[Search Tips\]](#)

At first it may look intimidating, but you don't have to use many of the fields if you don't know the information or it doesn't apply to you.

If you need help, click the "Search Tips" link at the bottom of the page. There is a link to an agency directory down there as well.

HOW TO USE DEP CALENDAR OF EVENTS

FIRST, use your computer's web browser to visit:

<http://www.ahs.dep.pa.gov/CalendarOfEvents/EventCalendar.aspx>

CALENDAR OF EVENTS						
Upcoming Events List						
Month January Year 2015						
January 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14 Meeting of the Technical Advisory Committee on Diesel- Powered Equipment Coastal Zone Advisory Committee meeting	15 Solid Waste Advisory Committee meeting	16	17
18	19	20	21	22 Mining and Reclamation Advisory Board (MRAB) meeting	23	
25	26	27	28 Small Business Compliance Advisory Committee meeting	29 Chesapeake Bay Management Team meeting,	30	31
1	2	3	4	5	6	7

Click on the
event to see its
details

NOTE: at the time of this writing, a web search for this calendar will not produce a working link as a result. You will have to enter the web address above into your browser's navigation bar and go directly to the page that way.

THEN, you can change the month and year you wish to see using the appropriate pulldown menus at the top of the calendar. Clicking on the text of the event title in a particular date square will take you to a page with information about that event.