



PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES
FACT SHEET

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 (DEP) is authorizing the discharge of stormwater associated with construction activity to surface waters of the Commonwealth under the PAG-02 General Permit. The purpose of this document is to explain the basis for the terms and conditions of the PAG-02 General Permit, in accordance with 25 Pa. Code § 92a.53 (relating to documentation of permit conditions).

DEP published notice of the availability of a draft PAG-02 General Permit in the *Pennsylvania Bulletin* on August 17, 2019 [49 Pa.B. 4603]. A 30-day comment period was provided, and interested parties were directed to submit comments to DEP's eComment system or by e-mail to ecomment@pa.gov. The comment period ended on September 16, 2019. DEP received comments and questions from 12 different individuals and organizations during the comment period, and has developed a separate comment-response document. DEP has reissued the PAG-02 General Permit for a new 5-year term, with an effective date of December 8, 2019 and an expiration date of December 7, 2024.

SCOPE

The PAG-02 General Permit is intended to provide NPDES permit coverage for stormwater discharges associated with construction activities in satisfaction of state (25 Pa. Code §§ 102.5(a) and 92a.1(b)) and federal (40 CFR §§ 122.26(b)(14)(x) and 122.26(b)(15)) regulations, subject to the eligibility requirements specified therein.

Under federal regulations, construction activities are one category of industrial activities whose stormwater discharges must be covered by an NPDES permit, and generally consist of clearing, grading and excavation resulting in earth disturbances greater than or equal to five (5) acres, as well as disturbances of less than five acres that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Under state regulations, construction activities consist of clearing and grubbing, grading and excavation activities involving one (1) acre or more of earth disturbance activity, or an earth disturbance activity on any portion, part or during any stage of, a larger common plan of development or sale that involves one acre or more of earth disturbance activity over the life of the project.

The PAG-01 General Permit has been developed specifically to cover eligible projects that discharge stormwater associated with small construction activities (less than 5 acres of disturbance). The PAG-02 General Permit has been developed to cover stormwater discharges associated with all eligible construction activities that must obtain NPDES permit coverage. In the event that a small construction activity is ineligible for PAG-01 General Permit coverage, an applicant may submit an NOI for PAG-02 General Permit coverage for that activity, if eligible for PAG-02.

Discharges from a project site may receive coverage under the PAG-02 General Permit when the standards contained in the Notice of Intent (NOI) Submittal section of the General Permit are met. A permittee may not commence a new discharge under the General Permit until the following conditions have been met:

1. A complete NOI package (3800-PM-BCW0405b and required attachments) has been submitted, as determined by DEP or the delegated county conservation district CCD, in accordance with the requirements of the General Permit and the NOI instructions.
2. The applicant has received written approval of coverage under PAG-02, signed by the appropriate DEP or CCD manager or supervisor.
3. The applicant has obtained all other state and local permits and approvals arising out of the earth disturbance activities reported in the NOI, including but not limited to sewage planning approval required by the Pennsylvania Sewage Facilities Act (Act 537), if applicable.

4. A pre-construction meeting has been held unless waived by DEP or CCD, in writing.

Please refer to the PAG-02 NOI Instructions (3800-PM-BCW0405a) for an explanation of the administrative process involved with the submission of a PAG-02 NOI package.

Notice of each approval of coverage under the PAG-02 General Permit will be published by DEP in the *Pennsylvania Bulletin*.

NOI REQUIREMENTS

Applicants with eligible projects seeking coverage under the PAG-02 General Permit must submit an administratively complete NOI at least 60 calendar days prior to the planned date for commencing any new discharge. An applicant authorized to discharge under an Individual NPDES Permit who is seeking coverage under the General Permit may continue to discharge in accordance with the Individual Permit while DEP or CCD reviews the NOI and associated documents for coverage under this General Permit. A complete PAG-02 NOI consists of the completed NOI form (3800-PM-BCW0405b) and all required attachments as referenced in the NOI checklist (3800-PM-BCW0405c).

The Erosion and Sediment Control (E&S) Module 1 (3800-PM-BCW0406a) must be completed by all applicants for PAG-02 coverage, which serves as the narrative component of the applicant's E&S Plan under 25 Pa. Code § 102.4(b). Site-specific E&S Plan Drawings and Standard Worksheets from the E&S Manual (and additional supporting calculations where necessary) must be submitted as attachments to the NOI.

The Post-Construction Stormwater Management (PCSM) Module 2 (3800-PM-BCW0406b) must be completed by all applicants for PAG-02 coverage, which serves, along with PCSM Plan Drawings and supporting calculations, as the applicant's PCSM Plan under 25 Pa. Code § 102.8. For the stormwater analysis required by 25 Pa. Code § 102.8(g), applicants whose projects do not meet criteria for site restoration projects must demonstrate the following:

- Volume Management – The applicant must demonstrate that the net change in runoff volume (comparing post-construction to pre-construction conditions) up to and including the 2-year/24-hour storm event will be managed, unless a more stringent design standard from a current Act 167 Plan approved by DEP within the past five years is used. The DEP PCSM Spreadsheet – Volume Worksheet (available at www.dep.pa.gov/constructionstormwater, select “E&S Resources”) may be used for this analysis. If not used, other supporting calculations must be provided.
- Peak Rate – The applicant must demonstrate that the net change in peak rate for the 2-, 10-, 50-, and 100-year/24-hour storm events will be managed, unless a more stringent design standard or a standard based on flood protection from a current, approved Act 167 Plan is used. The DEP PCSM Spreadsheet – Rate Worksheet may be used to document this analysis. Small projects with less than 5 acres of earth disturbance and less than or equal to one (1) acre of impervious surface following construction may be exempt from completing the peak rate stormwater analysis section of Module 2 (consistent with the “Small Site Exception”, Worksheet 6, of the current Pennsylvania Stormwater BMP Manual).
- Water Quality – The applicant must demonstrate that the net change in pollutant loading up to and including the 2-year/24-hour storm event will be managed. The DEP PCSM Spreadsheet – Quality Worksheet must be used for this analysis.

Other required NOI attachments include municipal and county notification forms, which serve to notify the municipality and county where the project is located and collect information on the presence of Act 167 stormwater management plans and municipal stormwater management ordinances, and a PNDI receipt documenting that the project will have No Impact, Conservation Measures, Avoidance Measures that are accepted by the applicant, or Potential Impact that is cleared through follow-up correspondence with jurisdictional agencies. The municipal and county notification forms must be submitted at the time the NOI is submitted. If the municipality and county do not sign the forms, the applicant must provide proof of receipt by the municipality and county. The PNDI receipt must be submitted with the NOI; any clearance letters may be submitted following NOI submission, prior to coverage approval.

Applicants, unless exempt from fees, must submit a \$500 administrative filing fee to the delegated CCD with the NOI package, as well as any additional fees the CCD requires. Applicants must also submit a fee in the amount of \$100 for each disturbed acre to DEP. In the event that a project is located in a county without a delegated CCD (i.e., Forest, Beaver and Philadelphia counties), both the disturbed acre fee and the administrative filing fee are to be submitted to DEP.

ELIGIBILITY CRITERIA

DEP will deny coverage under the General Permit when one or more of the following conditions exist:

1. Discharges to waters, including wetlands, with a designated or existing use of High Quality Waters (HQ) or Exceptional Value Waters (EV) pursuant to 25 Pa. Code Chapter 93 (relating to water quality standards) (25 Pa. Code § 92a.54(e)(9)).
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 (25 Pa. Code § 92a.54(a)(5)).
3. Discharges which individually or cumulatively have the potential to cause significant adverse environmental impact (25 Pa. Code § 92a.54(e)(1)).
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 (25 Pa. Code § 92a.54(e)(2)).
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 DEP/CCD (25 Pa. Code § 92a.54(e)(3)).
7. Discharges subject to categorical point source effluent limitations promulgated by the United States Environmental Protection Agency (EPA) for categories other than construction or post construction (25 Pa. Code § 92a.54(e)(5)).
8. Discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards (25 Pa. Code § 92a.54(e)(6)).
9. Discharges from construction activities for which DEP requires an Individual NPDES permit to ensure compliance with the federal Clean Water Act, Pennsylvania's 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 (25 Pa. Code § 92a.54(e)(8)).
10. Discharges associated with coal mining or noncoal mining activities pursuant to DEP'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 (25 Pa. Code § 92a.12(c));
12. Discharges from a site where other point source(s) require the issuance of an Individual NPDES permit (25 Pa. Code § 92a.54(e)(7));
13. Discharges to surface waters identified as waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Water Quality Monitoring and Assessment Report (Integrated Report) unless the discharges will be managed with a non-discharge alternative or ABACT BMPs.

NOTE – This prohibition is a modification to a similar prohibition in the PAG-02 General Permit that was effective on December 8, 2017. Where surface waters receiving discharges of stormwater associated with construction activity (directly) are impaired due to siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients, the permittee must demonstrate that the discharges will not cause or contribute to the impairment by selecting a non-discharge alternative or implementing Antidegradation Best Available Combination of Technologies (ABACT) BMPs. This requirement is not applicable to waters impaired by

other causes because construction stormwater discharges are not likely to cause or contribute to such impairments.

14. Discharges to surface waters identified as waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Report and are covered by an EPA-approved Total Maximum Daily Load (TMDL), including discharges to waters tributary to the Chesapeake Bay, unless the discharges will be managed with a non-discharge alternative or ABACT BMPs, and applicable wasteload allocations (WLAs) will be achieved.

NOTE – This prohibition is similar to No. 13 but for waters that are covered by an approved TMDL, including discharges to waters within the Chesapeake Bay watershed. While the establishment of a wasteload allocation (WLA) in a TMDL is unlikely for a construction stormwater discharge, if an WLA exists, the applicant must demonstrate that the WLA will be achieved through appropriate water quality calculations as part of the NOI.

15. Discharges to MS4s and CSO municipal systems without the written consent of the MS4 or CSO permit holder unless those discharges result in no increase in volume, 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.

AUTHORIZED DISCHARGES

A. Authorized Stormwater Discharges.

1. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity as defined at 25 Pa. Code § 92a.2.
2. Stormwater discharges designated by DEP as needing permit coverage under 40 CFR § 122.26(a)(1)(v), 40 CFR § 122.26(b)(15)(ii) or Pennsylvania's Clean Streams Law that are associated with construction activity.
3. Stormwater discharges from off-site construction support activities (off-site support activities) including but not limited to concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal (spoil) areas, borrow areas, stockpiling of topsoil, transfer of topsoil to other locations, and turnaround areas, provided that:
 - a. The off-site support activity is part of the same common plan of development or sale required to have permit coverage for stormwater discharges.
 - b. The off-site support activity is not a commercial operation and it does not serve multiple unrelated construction sites.
 - c. The off-site support activity does not continue to operate beyond the completion of the construction activity at the project site it supports and will be restored to approximate original condition, as defined in the PAG-02 General Permit.

If an off-site support activity does not meet these three guidelines, the off-site support activity will require separate NPDES permit coverage unless the earth disturbance will be less than one acre, in which case an E&S Plan must be developed, implemented and maintained in accordance with 25 Pa. Code § 102.4(b) and submitted for review and approval upon request by DEP or CCD.

B. Authorized Non-Stormwater Discharges.

The following non-stormwater discharges associated with small construction activity are authorized under the PAG-02 General Permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on the project site and the operator complies with any applicable requirements for these discharges under the General Permit:

1. Discharges from emergency fire-fighting activities.

2. Fire hydrant and waterline flushings that do not contain measurable concentrations of Total Residual Chlorine (TRC).
3. Landscape irrigation water.
4. Water used to wash vehicles and equipment where cleaning agents are not used.
5. Water used to control dust.
6. External building washdown where cleaning agents are not used and external surfaces do not contain hazardous substances.
7. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred and where cleaning agents are not used if such wash waters are directed to a sediment basin or similar BMP.
8. Uncontaminated air conditioning or compressor condensate.
9. Uncontaminated, non-turbid discharges of groundwater or spring water.
10. Foundation or footing drainage where flows are not contaminated with process materials such as solvents or contain pollutants from groundwater.
11. Construction dewatering water that complies with the construction dewatering discharge requirements of the PAG-02 General Permit.

These non-stormwater discharges are considered incidental to stormwater associated with small construction activity and may be discharged from project sites under the PAG-02 General Permit; however, DEP or CCD may require cessation of such discharges if determined necessary to protect public health and the environment. These non-stormwater discharges are generally consistent with EPA's construction general permit, issued in January 2017.

PART A – EFFLUENT LIMITATIONS

The PAG-02 General Permit establishes performance-based effluent limitations by requiring BMPs that are identified in E&S Plans, PCSM Plans, and where applicable, PPC Plans, and are approved by DEP or CCD. All stormwater discharges must comply with all applicable requirements established in accordance with DEP's regulations at 25 Pa. Code Chapters 91-96, 102, and 105 and, where applicable, must achieve WLAs established in an EPA-approved Total Maximum Daily Load (TMDL). Permittees must also achieve technology-based Effluent Limitation Guidelines in EPA's 40 CFR Part 450 regulations. DEP or CCD may, upon written notice, require additional BMPs or other control measures to ensure that the water quality standards of the receiving waters are attained.

In addition, the permittee may not discharge:

1. Floating solids, scum, sheen or substances that result in observed deposits in the receiving water. (25 Pa. Code § 92a.41(c))
2. Oil and grease in amounts that cause a film or sheen upon or discoloration of the waters of this Commonwealth or adjoining shoreline. (25 Pa. Code §§ 92a.47(a)(7), 95.2(2))
3. Substances in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life. (25 Pa. Code § 93.6(a))
4. Foam or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water. (25 Pa. Code § 92a.41(c))

PART A – MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

The following provides the key elements of monitoring, reporting and recordkeeping under the General Permit:

- Inspection and Oversight Requirements – visual site inspections must occur throughout the duration of construction and until the Notice of Termination (NOT) has been submitted the permittee. Two types of inspections are required: 1) routine inspections (at least weekly); and 2) post-storm event inspections (within 24 hours of each 0.25 inch or greater storm event or the occurrence of snowmelt sufficient to cause a discharge; and 3) corrective action inspections. Each inspection must be documented on DEP's Chapter 102 Visual Site Inspection Report or an alternative with identical information.
- Licensed Professional Oversight of Critical Stages – a licensed professional or a designee shall be present on-site and be responsible for oversight of critical stages of implementation of the PCSM Plan, unless a PCSM Plan is not developed, in accordance with 25 Pa. Code § 102.8(k). Critical stages may include the installation of underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by DEP. The licensed professional or designee must document findings related to implementation of critical stages on an inspection report.
- Non-Compliance or Potential Pollution Reporting – In accordance with 25 Pa. Code §§ 91.33 and 92a.41(b), permittees must provide immediate notification to DEP for any incident causing or threatening pollution (no later than 4 hours of becoming aware of the incident). In addition, 40 CFR § 122.41(l)(6) requires reporting within 24 hours of any non-compliance with the General Permit that may endanger health or the environment, including a written report within 5 days.
- Other requirements including permittee monitoring upon receipt of notification from DEP or CCD.

PART B – STANDARD CONDITIONS

In general, the following standard conditions are required by state and federal regulations, and identify other responsibilities of permittees, including:

- Procedures for permit modification, transfer, termination, or revocation and reissuance;
- Duty to provide information to DEP/CCD;
- Signatory requirements;
- Requirements for transferring permit coverage and responsibilities for operators to become co-permittees;
- Penalties and liabilities for violating permit conditions or limitations, or falsifying information;
- Provisions to provide entry to DEP and EPA to the facility, have access to records, and inspect and monitor facility operations at reasonable times;
- Clarification that property rights are not conveyed by coverage under the General Permit;
- Duty to reapply for permit coverage; and
- Availability of documents for public review.

PART C – SPECIAL CONDITIONS

The following describes the special conditions in Part C of the PAG-02 General Permit:

- **Prohibition of Non-Stormwater Discharges** – discharges under PAG-02 must be composed entirely of stormwater except for those non-stormwater discharges identified in the NOI Instructions for the PAG-02 General Permit (3800-PM-BCW0405a).

- **E&S Plans** – The E&S Plan, including construction sequencing and operation and maintenance of BMPs, must be implemented at all times. The permittee shall maintain the E&S Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP/CCD upon request.
- **Recycling and Disposal of Building Materials and Wastes** – All building materials and wastes must be removed from the site and recycled or disposed in accordance with DEP’s Solid Waste Management Regulations at 25 Pa. Code Chapter 260a, Chapter 271, and Chapter 287. No building material or wastes or unused building materials shall be burned, buried, dumped, or discharged at the site.
- **Preparedness, Prevention, and Contingency (PPC) Plans** – a PPC Plan must be developed if toxic, hazardous or other polluting materials will be on the project site.
- **PCSM Plans** – The PCSM Plan, including construction sequencing and operation and maintenance of BMPs, shall be implemented at all times. The permittee shall maintain the PCSM Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP/CCD upon request.
- **Pre-Construction Meeting** – A pre-construction meeting must be held prior to commencing construction, unless waived in writing by DEP/CCD.
- **Spoil or Borrow Areas** – This condition requires that an E&S Plan must be reviewed and approved by DEP/CCD for all spoil and borrow areas, and addresses pertinent requirements relating to the use of clean fill. Fill material not qualifying as clean fill is regulated fill and must be managed in accordance with DEP’s municipal or residual waste regulations based on 25 Pa. Code Chapters 271 or 287, whichever is applicable.
- **Phased Projects** – Prior to the commencement of earth disturbance activities for subsequent phases of the project, the permittee or co-permittee shall submit an E&S Plan and PCSM Plan and supporting information for each additional phase or portion of the project to DEP/CCD for approval.
- **Wetland Protection** – The permittee must conduct a wetland determination if hydric soils or other wetland features are present, and identify the wetlands on the E&S Plan and PCSM Plan.
- **Infiltration BMPs** – Where infiltration BMPs are being utilized, the permittee and co-permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration BMPs are compromised through compaction or other means, additional soil testing must be performed to verify that the BMP will perform as planned.
- **Sewage Facilities** – Earth disturbance may not commence until all related Act 537 Sewage Facilities Planning approvals have been obtained.
- **Long-Term Operation and Maintenance of PCSM BMPs** – This section identifies the requirements of § 102.8(m).
- **Voluntary Riparian Forest Buffers** – persons protecting, converting or establishing a new riparian forest buffer that meets the requirements of 25 Pa. Code § 102.14(b) (relating to riparian buffer requirements) 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.
- **Implementation of General Permit Requirements** – This condition establishes minimum requirements for permittees to ensure that personnel conducting earth disturbance activities are made aware of the General Permit and procedures necessary to comply with the General Permit and implement the approved E&S and PCSM Plans.
- **Threatened and Endangered (T&E) Species Protection** – This condition requires compliance with an approved Habitat Conservation Plan, if applicable; implementation of avoidance or mitigation measures or other measures determined necessary by jurisdictional agencies in a clearance letter to protect T&E species; and requires ongoing compliance throughout construction with federal and state laws for protecting T&E species.

PAG-02 MODIFICATIONS

The following substantive changes have been made for the reissued PAG-02 General Permit ("2019 General Permit") as compared to the PAG-02 General Permit that was in effect between December 8, 2017 and December 7, 2019 ("2017 General Permit"):

- **Expiration Date** – An expiration date has historically been used by DEP/CCD on the authorization of coverage page (page 1) for the PAG-02 General Permit as five years following the effective date of coverage. The expiration date could exceed the expiration date of the statewide General Permit itself. The 2019 General Permit establishes the expiration date of coverage as the expiration date of the statewide General Permit (i.e., December 7, 2024). In other words, coverage under the 2019 General Permit will be approved only to December 7, 2024.
- **General Permit Implementation** – As described above, new requirements have been established to ensure on-site personnel are aware of their responsibilities under the General Permit.
- **Authorized Non-Stormwater Discharges** – The 2019 General Permit authorizes certain non-stormwater discharges as described above under the "Authorized Discharges" section of this fact sheet.
- **Site Inspections** – The 2019 General Permit clarifies the appropriate form that must be used for documenting visual site inspections (or equivalent) and the measurable rainfall that triggers a post-storm inspection (0.25 inch) as compared to the 2017 General Permit. The 2019 General Permit also requires visual site inspections in response to observed deficiencies with E&S and/or PCSM Plan implementation (i.e., corrective action inspections).
- **Definitions** – Certain definitions have been added or updated to clarify the 2019 General Permit.
- **Prohibition on Certain Discharges** – Under the 2017 General Permit, there are two prohibitions on discharges to impaired waters, as follows:
 - *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.*

The 2019 General Permit clarifies that PAG-02 does not authorize stormwater discharges to waters impaired for siltation, suspended solids, turbidity (i.e., sediment), water/flow variability, flow modifications/alterations, or nutrients unless a non-discharge alternative or ABACT BMPs are implemented. The revised prohibition is as follows:

- Discharges to surface waters identified as waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Water Quality Monitoring and Assessment Report (Integrated Report) unless the discharges will be managed with a non-discharge alternative or ABACT BMPs.
- *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.*

Similar to the prior provision, the proposed 2019 General Permit requires that stormwater discharges to waters impaired for sediment or nutrients and are under an EPA-approved TMDL (including the Chesapeake Bay) must implement a non-discharge alternative or ABACT BMPs. In addition, if a TMDL includes a WLA for a construction stormwater discharge, the applicant will need to demonstrate how the discharge will comply with the WLA as part of the NOI submission. The revised prohibition is as follows:

- Discharges to surface waters identified as waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Report and are covered by an EPA-approved Total Maximum Daily Load (TMDL), including discharges

to waters tributary to the Chesapeake Bay, unless the discharges will be managed with a non-discharge alternative or ABACT BMPs, and applicable wasteload allocations (WLAs) will be achieved.

- **Modules** – For the 2019 General Permit, DEP is seeking to improve the efficiency and consistency of DEP and CCD completeness and technical reviews by requiring the use of templates for the narrative components of E&S and PCSM Plans (i.e., E&S Module 1 and PCSM Module 2).
- **Proof of Instrument Recording** – The 2017 General Permit required submission of proof of the recording of an instrument for PCSM BMPs with submission of the NOT. In addition to requiring proof upon submission of the NOT, the 2019 General Permit also requires proof upon submission of a Transfer Application.
- **Water Quality Analysis** – DEP is implementing a new procedure for the water quality analysis required by § 102.8(g)(2) as contained in DEP's PCSM Spreadsheet and explained in the instructions document to the spreadsheet. Submission of the Quality Worksheet of the PCSM Spreadsheet is required with PAG-02 NOIs.
- **Transfer and Co-Permittee Responsibilities** – Minor changes were made for transferring General Permit coverage and adding co-permittees to the coverage. The Transferee/Co-Permittee Application form (3150-PM-BWEW0228) will no longer be used. Permittees seeking to transfer General Permit coverage will use the [Application for NPDES/WQM Permit Transfer](#) form (Transfer Application) (3800-PM-BCW0041b) and permittees seeking to add operators as co-permittees will use the [Co-Permittee Acknowledgement Form for Chapter 102 Permits](#) (3800-FM-BCW0271a).
- **Soil Contamination** – Under the 2017 General Permit, if the potential exists for toxic or hazardous pollutants in stormwater to be discharged from the site during construction, the applicant may not be eligible for coverage. The issue typically arises in the context of known contaminated soils. The 2019 PAG-02 NOI Instructions clarify the criteria concerning soil contamination by specifying that if medium-specific concentrations in 25 Pa. Code Chapter 250 are exceeded, the project is not eligible unless a site-specific cleanup standard has been met under Act 2 or other program or evidence of naturally occurring soil contamination is provided.