

PENNSYLVANIA CAMPAIGN FOR CLEAN WATER
STORMWATER WORKGROUP

November 16, 2015

Andrew Gaul, PE
Pennsylvania Department of Environment
Bureau of Point and Non-Point Source Management
Rachel Carson State Office Building
P. O. Box 8774,
Harrisburg, PA 17105-8774

Dear Mr. Gaul:

Pennsylvania's Campaign for Clean Water Stormwater Workgroup (Workgroup) is a coalition of the state's environmental, conservation, sporting, and religious groups supporting federal and state policies to ensure clean water through effective and sound management of stormwater. We thank the Department for the opportunity to provide comments on the draft general permit (PAG-03) for discharges of stormwater associated with industrial activity.

The Department's recent efforts in updating and revising the municipal stormwater program and policies toward issuing a revised permit in 2018 are encouraging. We recognize the complexities of the industrial stormwater permitting program and appreciate the Department's efforts in improving all areas of stormwater policy and permits. The proposed revisions to PAG-03 fail to incorporate components that are necessary to ensure antidegradation of Pennsylvania's quality streams and fail to address continued discharges to impaired waters. We believe the Department's approach utilized in the municipal stormwater program to address existing impairment as well as to protect the High Quality (HQ) and Exceptional Value (EV) streams within the industrial stormwater program so be included within industrial stormwater permitting as well.

Please consider these specific issues and suggestions in revising draft PAG-03 to ensure industrial stormwater discharges are addressing both categorical water quality objectives while achieving state water quality objectives and standards.

1. A standard eligibility clause should be added to better define eligible facilities can obtain coverage under this permit in lieu of existing state water quality mandates. Ineligibility, restrictions and additional permittee responsibilities should be identified. At a minimum, this should include:
 - Antidegradation requirements: For HQ/EV streams, new permittees are not eligible under this permit. Existing, grand-fathered permittees should be RESTRICTED from increasing their flows or expanding their facilities under this permit. Existing permittees should be required to perform baseline monitoring to establish their baseline discharge of pollutants.
 - Discharge to impaired waters with or without an approved TMDL: Permittees that discharge to impaired waters should be required to apply for an individual permit. Item 12 under the "Discharges Not Authorized By This General Permit" excludes industrial stormwater discharges to impaired waters if the facility is likely to contain or are expected to contain pollutants contributing

to the violation of standards. The Department should document the process and applicability for a finding of no significant impact from the likely industrial discharge. The analysis should consider the industry categories and likely pollutants as well as facility size and typical site features (such as impervious surfaces). Industrial dischargers to impaired waters that might be eligible under PAG-03 should be required to demonstrate through additional monitoring requirements that discharge is not violating standards.

- Permits issued in the Chesapeake Bay watershed: Permittees should have additional requirements targeting reduction of nutrients and sediment from their facility consistent with Chesapeake Bay TMDL pollution reduction requirements and deadlines. The permit should prescribe additional management, operational, monitoring, assessment and reporting that would ensure the facility is managing their stormwater system to reduce nutrient and sediment discharges. Benchmarks, corrective actions and reporting should be required equivalent to the Chesapeake Bay Pollutant Reduction Plans required by municipal stormwater permittees
2. The Department must establish clear monitoring standards for industrial stormwater permittees that are technically and scientifically reliable. The draft permit does not provide any guidelines for what qualifies as a representative sample used to determine a facility's compliance. As written, a permittee has the authority to decide what methods they will employ to monitor for compliance. For example, a facility could take a sample of stormwater runoff that completely misses the first flush of pollutants entering a waterbody; thus, failing to capture an accurate sample of what is occurring at that site. At minimum, monitoring protocol should include where, when, what type storm event, and how to sample. The Environmental Protection Agency provides guidance on this in its "Industrial Stormwater Monitoring and Sampling Guide," document number EPA 832-B-09-003.
 3. Industrial stormwater discharges can be a complex mixture of numerous chemical constituents. The currently proposed monitoring protocol focuses on assessing and controlling individual chemicals known to be potentially present in industrial stormwater discharges. However, this methodology fails to assess the potential synergistic effects of such discharges on aquatic systems. In order to address this gap, Whole Effluent Toxicity (WET) testing should be included. In contrast with individual chemical approaches, WET testing measures the potential toxicity of all chemicals in a discharge. This testing may show that chemicals known to be toxic to aquatic organisms may be rendered non-toxic by particular characteristics of the effluent matrix and/or receiving stream chemistry or rendered more toxic. The synthesis of WET testing results, along with chemical analyses and other information, can provide a more comprehensive and realistic picture of potential effects of discharges into aquatic systems. No other water quality assessment tool has this particular capability.
 4. Standard conditions should include facility runoff management. The facility should be required to divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to minimize pollutants in the discharges. Stormwater controls that help reduce stormwater volume from the facility should be identified in the BMP section and encouraged or required as necessary. Development or redevelopment at the facility should include opportunities to better manage stormwater through implementation of green infrastructure and other sustainable practices.
 5. In order for the Department to be able to encourage and require low-impact development or installation of green infrastructure within this and other permits, the ongoing revision to the 2006 Pennsylvania State BMP Manual needs to be completed to establish design standards and protocols for implementation.

6. Employee understanding and participation in the facility's stormwater management program is crucial in success. As such, please add a standard condition for employee training on industrial stormwater programs, objectives, infrastructure and controls at the facility. Note the need to provide specific training for employees who work in areas where industrial materials or activities are exposed to stormwater and for employees who are responsible for implementing activities (e.g., inspectors, maintenance personnel, etc.). While these requirements are mostly identified within the BMPs Applicable to All Permittees section, the facility should have an overall training program for employees.
7. The permit should require coordination and communication for permittees that discharge stormwater to a permitted Municipal Separate Storm Sewer System (MS4). These facilities should be required to notify the owner of the MS4 in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's general permit number. The permittee should also be required to report any spills to the MS4. This provision should also include the need for the facility acknowledge and comply with additional MS4 stormwater ordinances that may be applicable.
8. The No Exposure Certification currently excludes discharges to HQ/EV streams. The certification should also exclude discharges to impaired waters and waters in the Chesapeake Bay watershed. The elimination of 5-year renewal Notice of Intent (NOI) for general permit coverage can reduce opportunities for program evaluation and public participation. The Draft Permit, as written, will allow the substitution of the Annual Report to serve as an ongoing NOI. While we firmly support the Annual Report, getting rid of the 5-year renewal NOI requirement is counter to the intent of a 5-year limit to a permit: program assessment and improvement. We believe the 5-year renewal NOI should remain a requirement for permit coverage. Each NOI submission for renewed coverage should be published in the Pennsylvania Bulletin to allow for public comment and participation in the permit process.

The Workgroup appreciates the Department's consideration of the comments we have presented to help ensure that the Commonwealth's industrial stormwater program is as strong as possible to protect Pennsylvania's waters. Just as municipal and construction permits take measures to protect local waterways and reduce runoff pollutants, industrial stormwater dischargers must also do their part in meeting water quality standards.

Sincerely,

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