



**July 28, 2015**

**To: Pennsylvania Department of Environmental Protection**  
**From: John Walliser, Pennsylvania Environmental Council**  
**Re: Comments on NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems, PAG-13**

The Pennsylvania Environmental Council (PEC) respectfully submits the following comments on the Pennsylvania Department of Environmental Protection's (Department) proposed PAG-13 NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems.

**Background**

In Pennsylvania, the combination of agricultural run-off, stormwater run-off, abandoned mine drainage, and municipal and industrial discharges contribute to the impairment of 19% of our 86,000 miles of streams, and present a long-term complex challenge.

Streams primarily impacted by stormwater runoff tend to be located within and adjacent to Pennsylvania's 13 metropolitan areas, including Pittsburgh, Philadelphia, and numerous other communities. Urban runoff not only affects stream habitat and water quality, but also stream function, leading to increased flooding, as well as property and infrastructure damage. To comply with the federal Clean Water Act, communities in designated urban areas with Municipal Separate Storm Sewer Systems (MS4) are required to submit stormwater management permits which describe how these impairments will be addressed and mitigated. In Pennsylvania there are currently 940 MS4 communities representing 37% of the state's 2,562 municipalities.

PEC has been deeply involved in water resource and stormwater management issues affecting our state: providing municipal stormwater management education and training opportunities, increasing watershed organization capacity, providing regulatory and policy recommendations, and advocating for innovation in financing green stormwater infrastructure projects. PEC works closely with its municipal and watershed partners to identify specific MS4 permit education and training needs, target programming to meet those needs, and connect permittees with the resources and technical assistance they need to enhance their ability to successfully implement effective stormwater management programs, improve their communities, and meet their state and federal permit obligations

Within this context, PEC has undertaken a review of the draft PAG-13 General Permit as published in the Pennsylvania Bulletin on May 30, 2015, identifying aspects that we feel will help MS4 permittees enhance their compliance activities and contribute to reducing impairments in PA's streams. We have also identified requirements that may generate ambiguity, and have provided recommendations and or follow-up questions in those instances.

Overall, PEC wishes to applaud Department leadership and staff for including numerous administrative and technical revisions that will provide more clarity to MS4 permittees in their updated Notice of Intent (NOI) submissions. In addition, we particularly commend Department efforts to provide targeted training opportunities and supplemental guidance documents, which will help MS4 permittees understand their specific expectations. We also note and support two significant revisions affecting MS4 permitting, including: (1) the requirement that MS4s discharging to impaired streams without an approved TMDL must prepare a Pollutant Reduction Plan (PRP); and (2) requiring individual permits for regulated small MS4s that are assigned a wasteload allocation in a TMDL approved by the U.S. Environmental Protection Agency (EPA) for nutrients, and/or sediment.

The PRP requirement will provide a framework for targeted pollution reduction goals with specific timelines, similar to those required for TMDL plans. Often pollutant TMDLs take many years to develop and approve, leaving MS4s with impaired streams little incentive to plan and implement targeted reduction programs. The PRPs require compliance metrics to measure reduction goals thereby providing a process that compels MS4s to address impairments earlier and in a specific manner.

### **General Comments**

The proposed permit includes a number of revisions that, in our opinion, provide greater clarity for MS4s in preparing their NOI submissions for coverage effective on March 16, 2018. In particular, we agree with the following administrative changes:

- Using the annual MS4 status report to serve as the NOI for ongoing coverage, thereby eliminating need for submission of renewal NOIs every five years.
- Removing de-chlorinated swimming pool discharges from the list of authorized non-stormwater discharges.
- Streamlining reporting requirements so that annual reports are due on September 30<sup>th</sup> for all MS4 permittees.
- Increasing accessibility of stormwater permit information to public.
- Reaffirming and clarifying that permittees are ultimately responsible for construction (Minimum Control Measure #4) and post construction stormwater management (Minimum Control Measure #5) compliance. For Minimal Control Measure #4, specifically requiring agreements between the permittee, the Conservation District, and any other resources to be used by the permittee that clearly defines the roles for each entity.
- Requiring preparation of a PRP in the NOI when a MS4 discharges stormwater to waters that drain to the Chesapeake Bay, or otherwise to local waters that are impaired for nutrients and /or sediment regardless of whether a TMDL has been approved.
- Not authorizing a general permit for regulated small MS4s who are assigned a wasteload allocation in a TMDL approved by EPA for nutrients, and/or sediment.
- Adding the requirement that permittee shall develop and maintain adequate legal authorities, and shall maintain adequate funding and staffing, to implement the General Permit
- Requiring in the PRP that the permittee identify project sponsors and partners and probable funding sources.
- Requiring that municipalities report all incidents causing or threatening pollution.
- Requiring under Minimum Control Measure #5 that an inventory of post-construction stormwater management Best Management Practices (BMPs) be developed that track location as well as operation maintenance activities.

We also note that the implementation of a comprehensive and effective MS4 stormwater management program presents numerous administrative, technical and economic challenges for the over 940 MS4s in

Pennsylvania's six watershed basins. In our experience, municipalities have varying capacity to develop and implement comprehensive stormwater management programs that will effectively reduce pollution. At the state level, administrative and funding policies need to enable continued, long term support to Pennsylvania's MS4s in their compliance efforts. Given recent budget and programmatic cuts, we are concerned about Department capacity to provide this support, manage the stormwater program, and enforce its requirements.

### **Specific Comments**

PEC offers the following recommendations on specific components of the draft permit and PRP requirements:

**On page 1 of proposed General Permit**, the requirement that permittees achieve pollutant loading reductions for sediment and total phosphorous is listed as "optional" under item 5.

- This should be changed to say: "required where applicable".

### **Discharges Authorized (pg. 3)**

- Item # 7 - Residential vehicle wash water is now authorized, but only if cleaning agents are not utilized. This is somewhat vague; the permit should provide a definition of "cleaning agents".

### **Discharges Not Authorized (pgs. 3-4)**

- Item #10 - The language of this item is also vague and should be further defined. For example, what is meant by "significant adverse environmental impact"? How does the Department determine that the discharge has caused an impairment? What is the timeframe for this determination?

### **Part A – Section III – Monitoring, Reporting and Recordkeeping (pg. 10)**

Sub-Section B requires that monitoring results and reports required by the permit be retained by the permittee for at least 3 years from the date of measurement, report or application.

- We generally support this requirement, but recommend that data associated with PRPs, and other permit elements that may extend over multiple 5-year permit cycles have longer retention requirements (e.g. retain such data until full compliance with permit is achieved).

### **Part C – Special Conditions**

Section I. B. 5 – Minimum Control Measure #5 – Post-Construction Stormwater Management in New Development and Redevelopment.

- In both BMP #1 and BMP #5, reference is made to the PA Stormwater BMP Manual, as amended and updated. PEC supports and encourages review and update of the BMP manual to incorporate new technologies and practices.

### **Appendix D and Appendix E – PRP Requirements for Discharges to Chesapeake Bay Watershed and Waters Impaired for Nutrients and/or Sediment.**

Section 1 of both Appendix D and E require minimum pollutant load reduction percentages within the 5-year permit timeline for the sediment and nutrient PRPs and the Chesapeake Bay PRP.

- We support the inclusion of compliance metrics. The permit requires at least 5% (nutrient) and 10% (sediment) reductions in 5 years – PEC does not understand how these metrics were determined, and requests clarification on this process. We recommend that percent reduction requirements be adopted that put permittees on a timeline for complying with water quality

standards within a targeted time period. We suggest 20 to 25 years. Information from existing TMDLs could be used to set pollutant reduction percentages.

**Conclusion**

We would be happy to discuss these comments with the Department in further detail. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'J' and 'W' followed by a horizontal line.

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