

PAG-02 Questions and Answers

Below are questions we have received from conservation districts and DEP Regional Offices pertaining to implementation of the PAG-02, 2009 amendment.

1. Question: Why was the general permit only reissued for two years?

Answer: During the process to reissue the general permit, EPA was concerned that with the standard five year re-authorization of the GP that potential changes proposed in the Chapter 102 regulations and the new federal regulation dealing with effluent limitation guidelines would not be incorporated into the GP in a timely manner. Therefore EPA would only agree to reissue the general permit on an interim two year cycle. When the general permit is reissued on or before December 7, 2011 the GP will again be a five year permit.

2. Question: If we authorized a GP prior to 12-7-09, it would be valid for 5 years, even though the GP expires at midnight 12-7-09 and a new GP with new conditions takes effect 12-8-09. Can you explain why we would use a 2-year expiration date on the new GP?

Answer: The term of the PAG-02, 2009 Amendment is two years but each project authorization is good for two years from the date of approval of coverage. So if a permit is authorized on November 15, 2011, the expiration of coverage is November 15, 2013. In addition language has been inserted in the permit (Part B section 1. (a) (1) that the general permit, 2009 amendment, will expire two years from the date of its issuance, and that any person with an unexpired approval of coverage under the general permit shall be responsible for complying with the final renewed, reissued, or amended general permit. That means they would have to meet any new standards contained in the PAG-02, 2011 amendment such as effluent limitation guidelines or revised Chapter 102 requirements, etc.

3. Question: Will a general permit only be good for 2 years instead of 5?

Answer: Yes the PAG-02, 2009 Amendment is good for two years and expires on December 7, 2011. EPA required shorter interim permit duration in order to incorporate the effluent limitation guidelines and recommendation based on any other changes that may result from final Chapter 102 rulemaking. When the department reissues the general permit on or before December 7, 2010 the GP will return to a five year permit.

4. Question: If we get a permit renewal in, does the permit only get renewed for 2 years? If we do a major modification to a permit, does that only extend the life of the permit 2 years?

Answer: Permit renewals and major modifications would be authorized under the PAG-02, 2009 amendment and would be good for two years. The permit fee also

increases to \$500.00, which also applies to permit renewals. Any renewed permit or reauthorized major modification is valid for a two year time period from the date that the conservation district or DEP authorizes the permit coverage.

5. Question: Please explain the statement in the general permit that states “any person with an unexpired approval of coverage under the general permit shall be responsible for complying with the final renewed, reissued or amended general permit”. Does that mean if the permittee now has a General NPDES permit and they did not meet the increase in the 2 year volume that they must now do so or get an Individual NPDES permit?

Answer: The provision contained in the PAG-02, 2009 Amendment on Part B (1) (a) (1) states that “any person with an unexpired approval of coverage under the general permit shall be responsible for complying with the final renewed, reissued, or amended general permit even if the discharger has not submitted a separate NOI to be covered by such final renewed, reissued, or amended general permit,” means that once a reissued PAG-02, 2011 Amendment is available all persons with unexpired PAG-02, 2009 amendment coverage must meet any new conditions and requirements of the new reissued general permit even if they have not applied for coverage under the reissued 2011 Amendment permit. This action is necessary to comply with federal regulations based on EPA comments. Please see the response on conditions 13 and 14 later in this document to see how to handle an increase in volume for the two year 24 hour storm event.

6. Question: Will DEP send out a direct link to the new materials once posted on DEP’s website?

Answer: DEP has provided the following link in e-library which contains the PAG-02 sample permit, the fact sheet and the comment and response document.
<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10687>

7. Question: If the general permit (2009 amendment) complies with the future standards to be put out in a 2011 amendment, will they be able to follow a more simplified process for renewal/reissuance? 2 years will go by in the blink of an eye and most projects, if they started work the day after issuance, would have trouble completing within two years. This has the potential of leaving a lot of permittees in limbo.

Answer: Chapter 92.13 (a) requires that a permittee who wishes to discharge after the expiration date of its NPDES permit shall submit a new application for reissuance or renewal of the permit at least 180 days prior to the expiration of the permit coverage. Unless the Chapter 92 and federal regulations are revised we must continue to require that a new application be submitted for permit renewals.

8. Question: Any thoughts on implementation for discharges in watersheds having a TMDL? Is there guidance in the works?

Answer: Program staff is currently working with our TMDL staff to determine what is required and what if any additional guidance is needed to implement these requirements. Additional information will be forthcoming regarding TMDLs.

9. Question: When will the new forms be on the web?

Answer: They are now on the e-library website. The link to the revised NOI/application is: <http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-9432>

10. Question: Which permit do we authorize to projects already in the system, that have not been acknowledged yet?

Answer: You must use the PAG-02, 2009 Amendment. The PAG-02, 2002 Amendment permit no longer can be issued to authorize activities after midnight December 7, 2009. You will have to work with applicants that currently have permit application packages in the system will need to meet any new conditions contained in the reissued 2009 Amendment general permit.

11. Question: If the permit application package is already in the system and they have paid the \$ 250.00 permit application filing fee should we request the additional \$250.00 to meet the new \$500.00 permit application filing fee?

Answer: No. Permit applications already in the system prior to December 8, 2009 that are being processed that have paid the \$250.00 permit application fee, we will not require them to pay the additional fee amount to bring it up to \$500.00. However, any permit applications received after 12-8-09 must include the \$500.00 permit application fee.

12. Question: If a plan is already submitted and in the process of review will it receive a 2 yr or 5yr permit?

Answer: The PAG-02, 2009 Amendment will be required and it is valid for a period of two years from the date of approval of coverage. Please note that this is an interim permit. DEP fully expects that the next revision to the PAG-02 will have a five year term of eligibility.

13. Question: If the permittee will receive 2 year permit, should we be notifying them of the change? Will DEP provide us with a new permit cover letter? The current version states 5 years. Should we modify this document ourselves? Other items with this language should be considered too, the CACP agreement for enforcement cases specifies the 5 years permit.

Answer: Yes, We recommend that you inform applicants that the permit coverage is only good for two years. Please update your sample letters as appropriate. The department will be making the necessary interim revisions to the letters and other guidance. Remember the two year permit cycle is an interim permit.

14. Question: What about applicants who have all of their approvals, but are waiting on their 537 approval letters? Which permit will they receive?

Answer: After midnight the PAG-02, 2002 amendment no longer exists so you must issue the PAG-02, 2009 Amendment with permit coverage for two years from the date of approval of coverage.

15. Question: Does the permit coverage term of an Individual NPDES permit remain five years?

Answer: Yes, the Individual NPDES permits can be used to authorize construction activities for up to five years from the date of approval of coverage and are not affected by the reissued PAG-02, 2009 amendment. Permit applicants that qualify for coverage under the NPDES general permit does have the option of choosing to seek permit coverage under the Individual NPDES permit. However, applicants that qualify for the use of the general permit should be advised to utilize the GP.

16. Question: What are the links to the 303 (d) list and waters with TMDLs?

Answer: The links appear on page 16 of the application checklist.

303 (d) list can be found at

<http://www.depweb.state.pa.us/watersupply/cwp/view.asp?a=1261&q=480056>

TMDLs can be found at:

http://www.dep.state.pa.us/watermanagement_apps/tmdl/

http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/index.htm

17. Question: What permit numbering system should we be using?

Answer: Continue to use the same permit numbering system with the exception that it will now be PAG02 not pag2. The numbers are PAG02 then the two digit region/program code, the two digit county code, the two digit year of issue, and the three digit consecutive permit number (001-999). For permit renewals you would use the same number and add R on the end. For permit amendments use the same number and in parenthesis list the amendment number such as (1). You should not be using the letter A after the permit number to designate an amendment just the number in parenthesis.

18. Question: How can a person submitting an NOI to work in an impaired or TMDL watershed ensure that they are not declared ineligible under conditions (13) or (14) on page 4 of the PAG-02.

Answer: If the NOI/application and supporting documents demonstrate consistency with Control Guideline 1 (CG-1) using the worksheets contained in the PA Stormwater BMP Manual (December 2006) or they use another alternative design standard that achieves the same regulatory result, the districts /regions should process the general permit application. To achieve the “same regulatory result”, the proposed discharge(s) cannot cause or contribute to a violation of water quality standards and the applicant would have to demonstrate this in their application. When not meeting CG-1, the applicant must address the following considerations to use PAG-02:

- **Use infiltration volume control BMPs or other BMPs that utilize this volume control approach.**
- **Maximize other volume control BMP alternatives such as non-structural BMP credits, bioretention, amended soils, green roofs, capture and reuse, or evapo-transpiration water budget analysis. All of these BMPs are spelled out in the PA Stormwater BMP Manual.**
- **In all cases where CG-1 is not met, the applicant must utilize worksheets 11 through 13 contained in the PA Stormwater BMP Manual to document how they are achieving water quality protection through the use of BMPs. (This is currently spelled out in the current BMP Manual for water quality compliance.**

If the applicant addresses all the above criteria and documents through the PCSM plan and worksheets that they meet the water quality treatment criteria for their discharge, they may use the PAG-02.

DEP Regional Office staff may provide technical assistance to conservation district staff in the review of the PCSM plan and worksheets to determine if the water quality standards are being met and whether the volume control approach addresses discharge concerns with channel degradation. During this process, the department may require applicants to conduct an analysis of the physical condition of the channel and/or provide other information to demonstrate that streambank protection will be achieved. The regional office may also opt to require an individual permit in these instances.

If the applicant cannot meet CG-1 or use another alternative design standard that meets the same regulatory result, they will not qualify for the use of the PAG-02.

During this process, potential Individual NPDES permit applicants should be alerted that unless the aforementioned considerations are addressed (i.e. through additional BMPs or changes in the scope of the project) then the same fundamental issues remain and the issuance of a permit would be unlikely.