

Questions and Answers About the PAG-02 General Permit Administrative Extension

The PAG-02 NPDES General Permit for Stormwater Discharges Associated with Construction Activities (PAG-02) will expire on December 7, 2017. The Department of Environmental Protection (DEP) is announcing that PAG-02 will be administratively extended until December 7, 2018. DEP provides answers to some common questions below.

What is the effect of an administrative extension to a statewide NPDES general permit?

An administrative extension continues the terms and conditions of a statewide general permit for a specific period of time following expiration of the general permit. A statewide general permit must be in effect in order for those with coverage under the statewide general permit to be authorized to continue discharging. An administrative extension allows those with current coverage to continue discharging. However, new general permit coverage cannot be granted under an administrative extension.

Why did DEP need to administratively extend PAG-02?

For a variety of reasons and despite its best efforts, DEP was not able to reissue PAG-02 for a new permit term prior to its expiration date. To prevent PAG-02 from expiring, which would have impacted everyone with current coverage under PAG-02, DEP decided to administratively extend PAG-02.

Why can't new coverage be approved under an administratively extended general permit?

PAG-02 is an NPDES general permit that is limited to a term of five years by the federal Clean Water Act and Pennsylvania's Chapter 92a regulations (33 U.S.C. § 1342 (b)(1)(B); 25 Pa. Code § 92a.54(b)). While existing coverage can be continued under an expiring permit under Chapter 92a (25 Pa. Code § 92a.7), new coverage cannot be granted. In overseeing DEP's administration of the NPDES program, EPA has consistently interpreted the Clean Water Act to prohibit issuing new coverage under an expired general permit.

I have submitted a Notice of Intent (NOI) for PAG-02 coverage to the conservation district for a new project prior to December 7, 2017. Will the conservation district be able to approve coverage under PAG-02?

The conservation district will be able to approve coverage under PAG-02 until December 7, 2017. After December 7, 2017, the conservation district will not be able to approve coverage under PAG-02 for a new project until a final, reissued PAG-02 is published by DEP.

When does DEP expect to reissue PAG-02?

DEP is currently planning to publish notice of a draft, reissued PAG-02 General Permit by December 2017. A final, reissued PAG-02 would likely be published by Spring 2018 (well before the expiration date of December 7, 2018).

What are the options for obtaining NPDES permit coverage during this period?

The only option for obtaining NPDES permit coverage from December 8, 2017 until a final, reissued PAG-02 is published is an individual NPDES permit. You may, however, submit a PAG-02 NOI to a conservation district and request that a review be conducted. The review may be completed during the administrative extension period, but approval of coverage would need to wait until the final, reissued PAG-02 is published.

If you do not wish to wait to receive NPDES permit coverage until the final, reissued PAG-02 is published, you may submit an individual permit application. For new projects that would normally qualify for PAG-02 coverage, conservation districts will conduct the entire review (with consultation with DEP as necessary) and issue the permit. You may submit the same information and fees for an individual permit application as you would for a PAG-02 NOI. The same form is used for both types of permits (3150-PM-BWEW0035). You could check the box for "Individual" for Permit Type and follow the applicable instructions as if you were submitting a PAG-02 NOI.

If your new project would not qualify for PAG-02 coverage, you would need to submit an individual permit application and the typical review process will occur (i.e., districts and DEP review with DEP issuing the permit).

I have existing PAG-02 coverage and I have not submitted a Notice of Termination (NOT). Am I affected by the administrative extension?

No. Conservation districts will be able to authorize amendments (modifications) to permit coverage and approve renewals of coverage during the administrative extension period. If your renewal NOI is due during the administrative extension period, and you wish to continue discharging following the expiration date of coverage, you should complete and submit your renewal NOI to the conservation district.

My PAG-02 NOI is currently under review and is not likely to be approved by December 7, 2017. What should I do to convert the NOI to an individual permit application?

Submit a signed, updated form 3150-PM-BWEW0035 with the box for "Individual" checked for Permit Type to the conservation district.

DEP will be posting updates on Chapter 102 NPDES permits on its construction stormwater website, www.dep.pa.gov/constructionstormwater, in the months ahead.