



POTTSVILLE DISTRICT OFFICE

August 10, 2016

New Hope Crushed Stone & Lime Co.  
6970 Phillips Mill Road  
PO Box 248  
New Hope, PA 18938-0248

Re: Surface Mining Permit No. 7974SM3C16  
NPDES Permit No. PA0595853  
General NPDES Stormwater Permit No. PAM116031  
Primrose Creek Restoration Project  
New Hope Crushed Stone & Lime Company Quarry  
Solebury Township, Bucks County

Ladies and Gentlemen:

Existing Permit No. 7974SM3 is hereby corrected per the above-referenced Applications dated July 2013 and July 2016 and in accordance with Consent Order and Assessment No. 13-5-042-N, to authorize the repair, reconstruction and restoration of Primrose Creek immediately upstream of the New Hope Crushed Stone and Lime Company quarry operation within the property of John and Sharon Mehok and New Hope Crushed Stone and Lime Company. The existing stream variance/Chapter 105 Authorization is extended to cover the project. General NPDES Stormwater Permit No. PAM116031 is issued for the necessary work (3.62 acres) beyond the limits of NPDES Permit No. PA0595853.

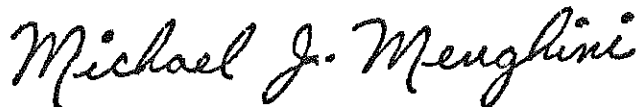
Any sinkholes encountered within the work area shall be immediately repaired and stabilized. Within 30 days of completion, the Permittee shall provide Certification, complete with as-built drawings and photographs from a Pennsylvania licensed Professional Engineer that the work has been completed in accordance with the enclosed, proposed plan.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 PA C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, phone 717.787.3483. TDD users may contact the Board through the Pennsylvania Relay Service at 800.654.5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board.

The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717.787.3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law. If you want to challenge this action, your appeal must reach the Board within 30 days. You do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so you should show this document to a lawyer at once. If you cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board at 717.787.3483 for more information.

Should you have any questions, please contact the Pottsville District Mining Office.

Sincerely,



Michael J. Menghini  
District Mining Manager  
District Mining Operations

Enclosures

cc: Gary A. Latsha, SMCIS  
Amiee Bollinger, SMCI  
PA Fish & Boat Commission  
Nels Taber, SCRO  
DEP, SERO  
EarthRes Group, Consultant  
Bucks County Conservation District  
Municipality of Solebury Twp.  
County of Bucks  
Solebury School  
Primrose Creek Watershed Association  
File  
MS1-New Hope (7-16)

MJM:NAH:JSB:tmr



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF MINING PROGRAMS

**APPROVAL OF COVERAGE UNDER THE GENERAL NPDES  
PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH  
MINING ACTIVITIES (BMP GP-104)**

NPDES PERMIT NO: PAM116031

Site Name & Location	Operator Name & Address
<u>New Hope Crushed Stone &amp; Lime Co. Quarry</u>	<u>New Hope Crushed Stone &amp; Lime Co.</u>
<u>Solebury Township</u>	<u>6970 Phillips Mill Road</u>
<u>Bucks County</u>	<u>PO Box 248</u>
<u>(SMP No. 7974SM3)</u>	<u>New Hope, PA 18938-0248</u>

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*, the Department of Environmental Protection hereby approves the Notice of Intent (NOI) submitted for coverage to discharge stormwater to the following surface water(s):

Primrose Creek

subject to the Department's enclosed BMP GP-104 which incorporates all effluent limitations, monitoring and reporting requirements and other terms, conditions, criteria and special requirements for discharge composed entirely of stormwater associated, in whole or in part, with mining activity, as defined in this general permit, to surface waters of the Commonwealth, including to municipal separate storm sewers and non-municipal separate storm sewer. Authorization to discharge is subject to the implementation of plans and additional associated information submitted as part of the Notice of Intent (NOI).

**APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN AND DESCRIBED IN SUPPLEMENTAL INFORMATION AND PLANS APPROVED BY THE DEPARTMENT COMMENCES ON THE DATE OF THE APPROVAL OF COVERAGE, AND IS VALID FOR A PERIOD OF FIVE YEARS WHEN CONDUCTED PURSUANT TO SUCH TERMS AND CONDITIONS. COVERAGE MAY BE EXTENDED BY THE DEPARTMENT IF AN ADMINISTRATIVELY COMPLETE AND ACCEPTABLE NOTICE OF INTENT (NOI) RENEWAL IS SUBMITTED TO THE DEPARTMENT AT LEAST 180 DAYS PRIOR TO DATE OF COVERAGE TERMINATION, UNLESS PERMISSION FOR SUBMISSION AT A LATER DATE HAS BEEN GRANTED BY THE DEPARTMENT. THE PERMIT MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON NOTICE TO AND APPROVAL BY THE DEPARTMENT. NO CONDITION OF THIS PERMIT SHALL RELEASE THE OPERATOR FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER PENNSYLVANIA, OR FEDERAL ENVIRONMENTAL STATUTES, AND REGULATIONS OR LOCAL ORDINANCES.**

COVERAGE APPROVAL DATE: August 10, 2016 COVERAGE EXPIRATION DATE: August 10, 2021

PERMIT RENEWAL DATE(S): \_\_\_\_\_ PERMIT CORRECTION DATE(S): \_\_\_\_\_

*Michael J. Menghini*

AUTHORIZED BY: Michael J. Menghini

TITLE: District Mining Manager



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF MINING PROGRAMS

## GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH MINING ACTIVITIES (BMP GP-104)

Under the authority of the The Clean Streams Law, 35 P.S. §§ 691.1-691.1001, The Clean Water Act, 33 U.S.C. §§ 1251-1387 and 25 Pa Code Chapters 92a and 102, the Department of Environmental Protection (Department) hereby authorizes, by general permit, subject to the terms, conditions, and criteria set forth as follows, NPDES coverage for stormwater discharges associated with mining activities.

### 1. DEFINITIONS

**Best Management Practices (BMPs)** – Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollutant loading to surface waters of this Commonwealth. The term includes treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The term includes activities, facilities, measures, planning or procedures used to minimize accelerated erosion and sedimentation and manage stormwater to protect, maintain, reclaim, and restore the quality of waters and the existing and designated uses of waters within this Commonwealth before, during and after earth disturbance activities..

**Department** – The Department of Environmental Protection (“DEP”) of the Commonwealth.

**Erosion and Sediment Control Plan (“E&S Plan”)** – A site-specific plan included with the mining permit or authorization application identifying BMPs to minimize accelerated erosion and sedimentation and which meets the requirements of 25 Pa. Code Chapter 102.

**High-quality or Exceptional Value waters (“HQ” or “EV”)** – Designation given to waters with special protections as defined in 25 Pa. Code § 93.1.

**Mining activities** – For coal mining activity, this is synonymous with the definition for “Surface mining activities” as found in 25 Pa. Code §§ 87.1 and 88.1. For noncoal mining activity, this is synonymous with the definition for “Noncoal surface mining activities” as defined in 25 Pa. Code § 77.1.

**NPDES – National Pollutant Discharge Elimination System** – A permit issued by the Department under 25 Pa. Code Chapter 92a for a discharge to a surface water of the Commonwealth, which EPA has also approved as meeting the requirements for the National system for the issuance of permits under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342).

**Notice of Intent (NOI)** – The Notice of Intent for Coverage under the Pennsylvania General Permit for Discharges of Stormwater Associated with Mining Activities (BMP GP-104).

**Permittee** – Person(s) or entity that has or intends to hold or is required by law to hold, a mining permit issued by the Department.

**Operator** – Person(s) or entity conducting mining activity that seek to be covered by this general permit or are approved for coverage under this general permit. The operator name must match the “Permittee” in relation to their mining permit or exploration activity approval and also that of “Operator” in the associated mine operator’s license. However, if the activity under this general permit is conducted by a contractor designated by the permittee or any other person, the operator remains liable for the requirements in this permit.

**Reclamation Plan** – Approved documentation made part of a mining permit or exploration notice that describes how the permittee will restore the land surface as required by the appropriate regulations to meet an approved post-mining land use. This plan includes activities such backfilling, regrading, soil stabilization, and revegetation. Once the permittee completes the reclamation plan, reclamation bond(s) are released for a permitted mine site.

**Stormwater** – Runoff from precipitation, snow melt runoff, and surface runoff and drainage.

**Stormwater Associated with Mining Activity** – The discharge into surface waters of the Commonwealth, municipal separate storm sewers, or non-municipal separate storm sewers from any conveyance which is used for collecting and conveying stormwater and which is related to mining activities. This term does not include clean water diverted around a mine site.

**Surface Waters** – Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process (as defined in 25 Pa. Code § 92a.1).

## 2. APPLICABILITY

- a. This general permit applies to earth disturbance activity of one (1) acre or greater associated with mining.
- b. This general permit is issued in conjunction with a separate mining permit or authorization where the only potential discharge to surface waters of the Commonwealth will be composed entirely of stormwater. Mining permit and authorization types include coal and noncoal mining permits, small noncoal (and bluestone) permits, noncoal mining general permits and exploration activities.
- c. This general permit is not applicable to sites that have an individual NPDES permit or another NPDES general permit.
- d. The general permit will not apply to those activities where one or more of the conditions listed in 25 Pa. Code § 92a.54(e)(1)–(9) exist. For those situations, or when otherwise notified by the Department, the operator shall file an application for an individual NPDES permit. An individual NPDES permit is necessary if the associated mining activity will or has the potential to discharge to 'HQ' or 'EV' designated waters, including EV wetlands pursuant to 25 Pa. Code Chapter 93 related to water quality standards, or to streams designated as "impaired waters" for sediment.

## 3. GENERAL INFORMATION AND REQUIREMENTS

- a. Persons proposing to discharge or who are currently conducting mining activity that may discharge stormwater associated with mining activities and persons proposing to expand the scope of previously authorized mining activity which discharges stormwater, who seek to be covered by this general permit, must submit an administratively complete and acceptable Notice of Intent (NOI) to the Department in the care of the appropriate District Mining Office. The NOI shall be filed in accordance with the detailed instructions specified in the NOI instruction package.
- b. In conjunction with this general permit, the same Operator must also be issued an associated mining activity permit or notice of intent to explore under 25 Pa. Code Chapters 77, or Chapters 86-90. Additional information pertinent to this discharge permit may be found in the associated mining permit or notice of intent to explore documentation. The issuance of this general permit shall only be valid for licensed mine operators.
- c. All discharges covered by this permit shall be composed entirely of stormwater. Discharges of material other than stormwater must be in compliance with an individual NPDES permit (other than this permit) issued for the discharge. Discharge of sewage, mine drainage, groundwater or industrial waste to an erosion and sediment control BMP is not permitted.
- d. Persons proposing to discharge must complete a Pollution Prevention and Contingency (PPC) Plan as part of the notice of intent or mining permit. The PPC plan shall be maintained on site at all times and made available for review at the Department's request.

## 4. EROSION AND SEDIMENTATION PLAN (E&S PLAN)

- a. Operators of all mining activities covered by this general permit shall develop, implement, and maintain erosion and sediment control BMPs and other pollution prevention measures required by this permit.
- b. The BMPs shall be designed to minimize the potential for accelerated erosion and sedimentation in order to protect and maintain water quality and existing and designated uses. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual, TGD No. 363-2134-008, or an approved alternative, such as the Engineering Manual for Mining Operations, TGD No. 563-0300-101, when authorized. The manuals are available from the Department or can be downloaded from the Department website <http://www.dep.pa.gov/>.

- c. An E&S Plan, which meets the requirements of 25 Pa. Code § 102.4(b), must be prepared, developed, and implemented for the mining activity covered by this permit as part of the mining permit or authorization. The E&S Plan approved as part of the mining permit, and the operator's NOI submitted for this general permit are used together to describe the BMPs that are required by this general permit.
- d. The Department may notify the operator at any time that the activities being conducted pursuant to this permit are not meeting the conditions of the permit. Upon plan review or site inspection the Department may require E&S Plan revisions or other appropriate action to ensure compliance with the conditions of this permit.
- e. E&S Plans required under the associated mining permit or authorization are considered reports that shall be available to the public under Section 607 of the Clean Streams Law, and 25 Pa. Code Chapter 92a of the Department's regulations. The owner or operator of a facility with stormwater discharges covered by this permit shall make E&S plans available to the public upon request. E&S Plans must be made available at the site of the mining activity at all times and available for review by the Department, Conservation District or other authorized local, state, or federal government official.

## 5. RECLAMATION PLAN

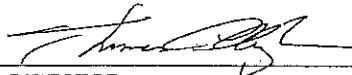
- a. A Reclamation Plan which meets the requirements of the Surface Mining Conservation and Reclamation Act, 52 P.S. §§ 1396.1 et seq., the Noncoal Surface Mining Conservation and Reclamation Act, 52 P.S. §§ 3301 et seq., the Coal Refuse Disposal Control Act, 52 P.S. § 30.51 et seq., and 25 Pa. Code Ch. 77 or Chs. 86-90, as applicable, must be prepared, developed, and implemented for the mining activity covered by this permit as part of the mining permit or authorization. The Reclamation Plan approved as part of the mining permit, and the operator's NOI submitted for this general permit, shall describe regrading, revegetation, and other pollution prevention measures that will occur after coal/mineral extraction is complete.
- b. The Reclamation Plan shall be designed to ensure that existing and designated uses of surface water are protected and maintained. The Reclamation Plan shall be designed to replicate premining infiltration and runoff conditions to the maximum extent possible, and shall comply with the requirements of §§ 77.521, 87.101 or 88.291. The Reclamation Plan meets the requirements with respect to the Post-Construction Stormwater Management Plan (PCSM Plan) as described in 25 Pa. Code § 102.8(n).
- c. If there are areas of permanent impervious surfaces that will not be reclaimed as part of the approved site Reclamation Plan, long-term post construction stormwater management BMPs must be designed, implemented and maintained in accordance with 25 Pa. Code § 102.8, and the following apply:
  - (1) The operator shall be responsible for long-term operation and maintenance of BMPs unless a different person identified after bond release is authorized and that person has agreed to long-term operation and maintenance of the BMPs.
  - (2) The operator shall record an instrument with the Recorder of Deeds which will assume disclosure of the BMPs and related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the BMPs, provide for necessary access related to long-term operation and maintenance for BMPs, and provide notice that the responsibility for such is a covenant that runs with the land that is binding upon and enforceable by subsequent grantee.
  - (3) The person responsible for performing long-term operation and maintenance may enter into a written agreement with another person, including a conservation district, nonprofit organization, municipality, authority, or private corporation to transfer the responsibility for BMPs or to perform long-term operation and maintenance and provide notice thereof to the Department.
  - (4) An operator that fails to transfer long-term operation and maintenance of the BMPs or otherwise fails to comply with this requirement shall remain jointly and severally responsible with the landowner for long-term operation and maintenance of the BMPs located on the property.

## 6. ADMINISTRATIVE REQUIREMENTS

- a. The authorization to use this general permit shall continue for a maximum of 5 years upon which the operator may renew the coverage for another 5 years (in association with a mining permit only) until any reclamation is completed and the site is stabilized. The operator must request, in writing, termination of coverage under this GP if termination does not coincide with bond release, termination due to transfer of mining permit, or expiration date of the coverage.

- b. The operator authorized under this permit may be required to apply for an Individual NPDES permit through written notice by the Department. This notice shall include the following: (1) a brief statement of the reasons for the decision, (2) an application form for an Individual NPDES permit, and (3) a statement setting a 90 day deadline for the owner or operator to file the application.
- c. Persons requesting a renewal of coverage under this general permit must submit to the Department an administratively complete and acceptable NOI, at least 180 days prior to the expiration date of the coverage, unless permission has been granted by the Department for submission at a later date. In the event that a timely, administratively complete, and acceptable application for renewal of coverage has been submitted and the Department is unable, through no fault of the operator, to reissue the approval for coverage before the expiration date of the approved coverage, the terms and conditions of the approved coverage will be automatically continued and will remain fully effective and enforceable pending the issuance or denial of the renewal of coverage, provided the operator is, and has been, operating in compliance with the terms and conditions of the permit.
- d. No condition of this permit shall release any person from any responsibility or requirements under other federal or Pennsylvania environmental statutes or regulations or local ordinances.
- e. This approval to operate under the general permit is not transferable.
- f. Where all stormwater discharges authorized under this approval are eliminated, the permittee's Reclamation Plan is completed, and all bond is released, coverage under this general permit is automatically terminated.

The General NPDES Permit for Stormwater Discharges Associated with Mining Activities BMP GP-104 is effective February 12, 2016 and shall expire at midnight February 12, 2021 unless reissued on or before this date by the Department.

BY   
\_\_\_\_\_  
DIRECTOR  
BUREAU OF MINING PROGRAMS

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## PART A

### EFFLUENT LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS

#### 1. EFFLUENT LIMITATIONS

This permit establishes performance-based narrative effluent limitations in the form of implemented BMPs identified in the associated E&S Plan, Reclamation Plan (serving as the Post Construction Stormwater Management Plan) and the NOI for this general permit. These BMPs manage the rates, volume and quality of stormwater runoff and associated pollutants discharged into surface waters of the Commonwealth.

BMPs must be consistent with Section 4.b. of this permit (Erosion and Sedimentation Plan) and the approved Reclamation Plan provided in the approved associated mining authorization.

In addition, facilities that discharge stormwater, must meet these numeric effluent standards:

Parameter	30-day average	Daily Maximum	Instantaneous Maximum
Total Suspended Solids	35 mg/l	70 mg/l	90 mg/l
Total Settleable Solids	0.5 ml/l Instantaneous Maximum (Sampled within 24 hrs of a precipitation event, in lieu of total suspended solids.)		
Any discharges resulting from a precipitation event exceeding a 10-yr, 24 hr. precipitation event are not subject to total suspended or settleable solids requirements.			
pH	Greater than 6.0; less than 9.0		

#### 2. MONITORING AND REPORTING REQUIREMENTS

##### a. Visual Inspections

The operator must ensure that visual site inspections are conducted and documented weekly while operating, monthly if not operating, and within 24 hours after each 10 yr 24-hr precipitation event by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that the Erosion and Sediment Control (E&S) BMPs are operational and effective in preventing pollution to the waters of the Commonwealth. A written report of each inspection shall be kept, and include:

- (1) A summary of site conditions, BMPs, implementation and maintenance and compliance actions; and
- (2) The date, time, and the name and signature of the person conducting the inspection.

##### b. Non-compliance Reporting

Where BMPs are found to be inoperative or ineffective during an inspection, or any other time the operator becomes aware of any incident causing or threatening pollution, as required by 25 Pa. Code § 92a.41(b), the operator shall, within 24 hours, contact the Department (the appropriate District Mining Office), followed by the submission of a written report within 5 days of the initial contact. Non-compliance reports shall include the following:

- (1) Any condition on the project site which may endanger public health, safety, or the environment, or involve incidents which cause or threaten pollution;
- (2) The period of non-compliance, including exact dates and times and/or anticipated time when the activity will return to compliance;



- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance; and
- (4) The date or schedule of dates, and identifying remedies for correcting non-compliance conditions.

Except for data determined to be confidential under Section 607 of the Clean Streams Law, all reports and other information regarding non-compliance reporting shall be available for public inspection at the appropriate District Mining Office.

**c. Testing Requirements**

For those permits with a discharge, a grab sample must be taken during a discharge at every point source outfall at least once per year and at any time requested by the Department in order to establish that the BMPs are in good working order. The samples must be analyzed for pH, total suspended solids and total settleable solids. The results must be submitted to the District Mining Office and must contain the permittee name, mining permit number, operation name, township, county, date of sample and results. The original reporting sheets from the testing laboratory must be included.

**d. Supplemental Monitoring**

The Department may require additional monitoring where an increased risk of water pollution is present, or water pollution is suspected to be occurring from a mining activity subject to this general permit, or for any reason in accordance with, 25 Pa. Code § 92a.61 (related to monitoring). The operator shall commence such monitoring upon notification from the Department. Monitoring results shall be submitted to the Department upon request.

**3. RECORD KEEPING**

**a. Retention of Records**

The operator shall retain records of all monitoring information including copies of all monitoring and inspection reports required by this permit, all monitoring information (including site log book, calibration and maintenance records) and records of data used to complete the NOI for this permit, for a period of three years from the date of the termination of coverage under this permit. This period of retention must be extended during the course of any unresolved compliance, enforcement, or litigation, or when requested by the Department.

**b. Reporting of Monitoring Results**

Visual inspection monitoring results shall be submitted to the Department upon request.

**4. CONSISTENCY WITH PERMIT**

All discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit.

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DISTRICT MINING OFFICE  
PITTSBURGH, PA

**PART B:**  
**Mandated Standard Conditions for NPDES permits**

**1. Definitions**

*The following definitions apply within this permit. Appropriate reference citations are given from 40 CFR as noted.*

- (a) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. 122.41(m)(1)(i) and 25 Pa. Code §§ 92a.3(c) and 92a.41(a).
- (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. 122.41(m)(1)(ii) and 25 Pa. Code §§ 92a.3(c) and 92a.41(a).
- (c) "Average monthly" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. 122.2 and 25 Pa. Code § 92a.2.
- (d) "Maximum daily" discharge limitation means the highest allowable "daily discharge." 122.2.
- (e) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "Daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day. 122.2 and 25 Pa. Code §§ 92a.2 and 92a.3(b)(1).
- (f) "Average" refers to the use of an arithmetic mean, unless otherwise specified in this permit. 122.41(l)(4)(iii).
- (g) "Instantaneous Maximum" means the level not to be exceeded at any time in any grab sample.
- (h) "Composite Sample" means a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates, or the sampling interval (for constant volume samples) is proportional to the flows rates, over the time period used to produce the composite.  
  
The maximum time period between individual samples shall not exceed two hours, except that for wastes of a uniform nature the samples may be collected on a frequency of at least twice per working shift and shall be equally spaced over a 24-hour period (or over the operating day if flows are of a shorter duration).
- (i) "Grab Sample" means an individual sample collected at a randomly-selected time over a period not to exceed 15 minutes.
- (j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
- (k) "At Outfall XXX" means a sampling location in outfall line XXX below the last point at which wastes are added to outfall line XXX, or where otherwise specified.
- (l) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- (m) "Toxic Pollutant" means any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act. 122.2 and 25 Pa. Code § 92a.2.
- (n) "Hazardous Substance" means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act. 122.2 and 25 Pa. Code § 92a.3(b)(1).

## 2. Standard conditions

25 Pa. Code §§ 92a.41 and 92a.42 requires that the following conditions from 40 CFR Sec. 122.41 and 122.42 are applied to all permits.

- (a) *Duty to comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- (1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
  - (2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
  - (3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.
- (b) *Duty to reapply.* If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.
- (c) *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (d) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (e) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires

the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

- (f) *Permit actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- (g) *Property rights.* This permit does not convey any property rights of any sort, or any exclusive privilege.
- (h) *Duty to provide information.* The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.
- (i) *Inspection and entry.* The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department, EPA or County Conservation District), upon presentation of credentials and other documents as may be required by law, to:
  - (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
  - (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - (4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.
- (j) *Monitoring and records.*
  - (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
  - (3) Records of monitoring information shall include:
    - (i) The date, exact place, and time of sampling or measurements;
    - (ii) The individual(s) who performed the sampling or measurements;
    - (iii) The date(s) analyses were performed;
    - (iv) The individual(s) who performed the analyses;
    - (v) The analytical techniques or methods used; and
    - (vi) The results of such analyses.
  - (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O.
  - (5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

(k) *Signatory requirement.*

- (1) All applications, reports, or information submitted to the Department shall be signed and certified. (See §122.22)
- (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

(l) *Reporting requirements.*

- (1) *Planned changes.* The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (2) *Anticipated noncompliance.* The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (3) *Transfers.* This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See §122.61; in some cases, modification or revocation and reissuance is mandatory.)
- (4) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (6) *Twenty-four hour reporting.*
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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- (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
    - (A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g).
    - (B) Any upset which exceeds any effluent limitation in the permit.
    - (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours. (See §122.44(g).)
  - (iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (l)(6)(ii) of this section if the oral report has been received within 24 hours.
  - (7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (l) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section.
  - (8) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.
- (m) *Bypass.*
- (1) *Definitions.*
    - (i) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
    - (ii) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
  - (2) *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (m)(3) and (m)(4) of this section.
  - (3) *Notice.*
    - (i) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
    - (ii) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).
  - (4) *Prohibition of bypass.*
    - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
      - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
      - (C) The permittee submitted notices as required under paragraph (m)(3) of this section.
    - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.
  - (n) *Existing manufacturing, commercial, mining, and silvicultural dischargers.* In addition to the reporting requirements above, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:
    - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) One hundred micrograms per liter (100 µg/l);
  - (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with §122.21(g)(7); or
  - (iv) The level established by the Department in accordance with §122.44(f).
- (2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 µg/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with §122.21(g)(7).
  - (iv) The level established by the Department in accordance with §122.44(f).

25 PA Code 92a.41 requires that the following conditions are applied to all permits:

- (o) The permittee shall comply with the immediate oral notification requirements of 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution). Oral notification is required as soon as possible, but no later than 4 hours after the permittee becomes aware of the incident causing or threatening pollution. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the incident causing or threatening pollution. The written submission must conform to the requirements of 40 CFR 122.41(l)(6).
- (p) The discharger may not discharge floating materials, scum, sheen, or substances that result in deposits in the receiving water. Except as provided for in the permit, the discharger may not discharge foam, oil, grease, or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water.

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