



Bureau of Waterways Engineering and Wetlands

Update Notice of Termination for NPDES Permits for Construction Activities

Aug. 15, 2013

Dial-in number for Audio: 1-877-668-4493

Event Number: 647 217 651

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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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AGENDA

1. Welcome
2. Notice of Termination Requirements
3. Questions & Comments

Note: WebEx Technical Support is available at
866-229-3239

➤ Notice of Termination Requirement

When is a Notice of Termination (NOT) required?

- All permittees (and co-permittees, when applicable) are required to submit a NOT.
- Regulatory requirement under Chapter 102, Section 102.7.
- Condition of permits issued under the authority of Chapter 102.

When to Submit a NOT

- All areas must have achieved permanent stabilization
 - Seeding, mulching, and topsoil replacement must be finished.
 - A minimum uniform 70% perennial vegetative cover with a density capable of resisting erosion must be established.
 - Temporary E&S measures are removed.

When to Submit a NOT

- Permanent post construction stormwater management (PCSM) BMPs are installed.
- A co-permittee may terminate when its obligations under the co-permittee agreement are fulfilled.

How to Submit a NOT

- Send to local conservation district or DEP regional office.
- Different form depending if the project was permitted prior to Nov. 19, 2010 or renewed before Jan. 1, 2013

➤ Notice of Termination Requirement

What are the responsibilities of DEP and the local conservation districts?

- Review the NOT once submitted and conduct an inspection within 30 days of its receipt.
- Deny or approved based on findings of inspection.

▶ Notice of Termination Requirement

What if the DEP/CD finds that PCSM BMPs are not installed correctly during the NOT inspection, even when certified?

- DEP/CD will not acknowledge the NOT.
- If the NOT inspection finds PCSM BMPs not installed properly, the NOT will be denied.
- Once all PCSM BMPs are correctly repaired or re-installed another NOT may be submitted.

What Should the NOT Contain?

- Information on the person who agreed to and will be responsible for the PCSM long-term operation and maintenance from the site.
- Proof that an instrument was recorded with the recorder of deeds.
- Certification from the licensed professional.
- A copy of the record drawings for the site.

▶ Notice of Termination Requirements

Important Note: Sites permitted before Nov. 19, 2010 or renewed before Jan. 1, 2013 are not subject to the requirements previously listed.

What if a NOT is not submitted?

- Permit obligations continue even if the permit expires.
- Permittee (and co-permittee, when applicable) will remain responsible for the site and any violations on the site until written confirmation is provided.
- Permittee (and co-permittee) and landowner will remain responsible for long-term operation and maintenance (O&M)
 - PCSM BMPs
 - Riparian buffers when applicable

Common Notice of Termination Q&A

Q: Should an NOT be submitted for a site after the permit has expired?

A: Yes, especially permits authorized after November, 19 2010. There is still an ongoing regulatory requirement, even if the permit has expired.

Common Notice of Termination Q&A

Q: How can a NOT be acknowledged if the permittee(s) never recorded the long-term O&M?

A: According to 102.8(m), DEP/CDs cannot sign off on an NOT unless an instrument or record drawings, have been completed.

Common Notice of Termination Q&A

Q: What if a permittee cannot get a licensed professional to seal record drawings?

A: A licensed professional should be on-site as BMPs are being built. A licensed professional must be on site during critical stages. The permittee's licensed professional must seal record drawings.

Common Notice of Termination Q&A

Q: What if an underground BMP was installed on a site but the licensed professional did not observe it and the developer tries to terminate (the permit)?

A: The permittee needs to address this situation with their licensed professional. If a certification can not be provided, the NOT cannot be approved.

Common Notice of Termination Q&A

Q: Can a NOT be acknowledged if the permittee(s) never recorded the long-term O&M?

A: No. Chapter 102, Section 102.8(m) states that it must be done before DEP/CD's sign off on an NOT, such as instrument or record drawings.

Common Notice of Termination Q&A

Q: How does DEP/CD terminate long-term phased projects when the permit continues to be renewed/modified and the permittee does not submit NOTs for phases that have been completed?

A: Under Chapter 102, a phase of a permit may be released from the permit with an NOT identifying that portion of the permit as the portion that is both permanently stabilized and has PCSM BMPs installed and functioning correctly.

Common Notice of Termination Q&A

Q: What if the NOT is submitted but there are signatures missing from Appendix B or Appendix B was not included?

A: The signatures are required to transfer responsibility and must be included.

Common Notice of Termination Q&A

Q: Is it necessary for the permittee to submit documentation to indicate proof of filing of instrument with recorder of deeds or does a notarized signature of section 6 of the NOT form sufficient for proof? If documentation is necessary, what specifically suffices as proof?

- The notarized signature in Section 6 does not satisfy this requirement
- The permittee must provide the receipt from the Recorder of Deeds as proof that it was filed

Common Notice of Termination Q&A

Q: Can a permittee supply as-built plans for the PCSM BMP's or are the certified record drawings of the PCSM BMPs from the design engineer sufficient?

- Some BMPs, such as vegetated swales or riparian buffers, and similar non-structural type of BMPs do not require as-builts so the PCSM Plans are adequate.
- BMPs, such as underground storage and structural BMPs that required some degree of design/engineering and/or have a structural component of their function do need as-builts.



Questions?

Please type your questions into the chat window now.



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For more information, contact:

Jen Orr
jeorr@pa.gov
(717)772-5961

Kenneth Murin
kmurin@pa.gov
717-772-5975

http://www.portal.state.pa.us/portal/server.pt/community/dep_home/5968