

Clean Water Permitting Program

DEP's [Clean Water Permitting Program](#) manages and regulates the discharge of pollutants to surface waters and groundwater in Pennsylvania, with the objective of protecting water uses, including human health and aquatic life. The program is administered by DEP's Bureau of Clean Water (BCW) and is implemented by DEP's six regional offices. BCW establishes regulations, guidance and policy that are used by DEP regional offices to carry out program objectives.

The foundation of the program is [The Clean Streams Law](#) (35 P.S. Sections 691.1-691.1001), which requires that any person proposing a discharge of pollutants to waters of the Commonwealth must apply for and obtain a permit from DEP. The Federal Clean Water Act, which established the National Pollutant Discharge Elimination System (NPDES) program, has similar objectives. DEP is delegated by the EPA to administer the NPDES program in Pennsylvania. When DEP issues an NPDES permit it authorizes the discharge of pollutants to surface waters only in amounts that will maintain or restore water quality in those surface waters, and in doing so DEP satisfies the permit requirements of the Clean Streams Law. 25 Pa. Code [Chapter 92a](#) of DEP's regulations describe the requirements for obtaining NPDES permits, including applications, fees, public participation, and treatment standards.

The Clean Streams Law also requires a permit from DEP prior to the construction of infrastructure that is used to treat or convey sewage and industrial wastes and for discharges to groundwater through the application of pollutants to the land or to the subsurface environment. 25 Pa. Code [Chapter 91](#) of DEP's regulations establish the rules relating to these activities, which require a "Water Quality Management" (WQM) permit from DEP.

In general, the following types of facilities and activities need NPDES permit coverage under Chapter 92a: discharges from sewage treatment facilities (including combined sewer overflows); discharges from industrial facilities for process and non-process wastewater; [stormwater discharges from certain industrial sites](#); stormwater discharges from [municipal separate storm sewer systems \(MS4s\)](#); certain [pesticide](#) application activities; [Concentrated Animal Feeding Operations \(CAFO\)](#); and discharges from Concentrated Aquatic Animal Production (CAAP) facilities. Discharges from mining activities and [stormwater associated with construction activities](#) are regulated under Chapter 92a and separate chapters. The NPDES Permitting Division within BCW has administration responsibilities for all NPDES permits issued by DEP, with the exception of mining activities which are handled by the Bureau of District Mining Operations¹. Following permit issuance, DEP or its delegated conservation districts (for stormwater associated with construction activities only) conduct inspections of permitted facilities to assure compliance, and where necessary, pursues enforcement to compel compliance. These activities are done by DEP regional offices and conservation districts with oversight by BCW.

¹For more information on the mining activities and permitting, see the Active and Abandoned Mining Operations Program overview under Control Programs.

Under Chapter 91, WQM permits are needed for the construction and operation of wastewater pumping stations, treatment facilities, certain sewer extensions and collection systems, discharges to groundwater, proposals relating to wastewater reuse, and the application of herbicides and fish control chemicals to surface waters. The Municipal Facilities Division within BCW oversees WQM permit activities for the statewide Clean Water Program. The Municipal Facilities Division also oversees permitting activities relating to the beneficial use of [biosolids](#) and septage in Pennsylvania.

Pennsylvania's universe of NPDES permits is amongst the highest in the nation, with over 15,000 permitted facilities. NPDES permits are typically issued for 5-year terms. Table 1 shows the NPDES permits issued between October 1, 2019 and September 30, 2021.

Table 1. Overview of NPDES permit statistics (10/01/2019 – 9/30/2021)

NPDES Permits, Number Issued:	
New	566
Renewals	1,510
Amendments	192
Transfers	334
Total	2,602
NPDES Individual Permits Issued:	
Industrial Waste	322
Sewage, Minor Facilities	1,252
Sewage, Major Facilities	86
Industrial Stormwater	144
CAFO	38
CAAP	5
MS4s	98
Pesticides	9
Total	1,954
NPDES General Permits Issued:	
PAG-03 Discharges of stormwater associated with industrial activities (including No Exposure Certifications)	333
PAG-04 Discharges from small flow sewage treatment facilities	87
PAG-05 Discharges from petroleum contaminated groundwater systems	7
PAG-06 Discharges from combined sewer systems	0
PAG-10 Discharges from hydrostatic testing	13
PAG-11 Discharges from Aquatic Animal Production facilities	0
PAG-12 Concentrated Animal Feeding Operations	83
PAG-13 Discharges from small municipal separate storm sewer systems (MS4s)	121
PAG-15 Discharges from Application of Pesticides	4
Total	648

Not included in Table 1 are sites covered by NPDES permits under 25 Pa. Code [Chapter 102](#) for stormwater discharges associated with construction activities. DEP and delegated conservation districts issue approximately 2,000 NPDES permits per year under Chapter 102. Most earth disturbance activities require an NPDES permit when the disturbance will be at least one acre under Chapter 102.

Table 2 shows the number and type of WQM permits issued between October 1, 2019 and September 30, 2021. WQM permits are generally not renewed except for permits for the use of herbicides and fish control chemicals (a joint permit approved by DEP and the Pennsylvania Fish and Boat Commission) and permits for the land application of wastewater.

Table 2. Overview of WQM permit statistics (10/01/2019 – 9/30/2021)

WQM Permits, Number Issued:	
New	1,008
Renewals	359
Amendments	502
Transfers	482
Total	2,351
WQM Permits Issued:	
WQM General, Small Flow Treatment Facilities	41
WQM General, Sewer Extensions and Pumping Stations	88
WQM Part II, Industrial Waste, Land Application	3
WQM Part II, Industrial Wastewater Facility	142
WQM Part II, Manure Storage Facility for CAFO	13
WQM Part II, Sewage Facility	708
WQM Part II, Sewer Extensions and Pumping Stations	312
WQM Part II, Sewage Treatment Plant Land Application	48
Joint Chapter 91.38 Pesticides Permit	996
Total	2,351

For NPDES permits issued under Chapter 92a, DEP’s Clean Water Program conducts an average of approximately 6,000 facility inspections per year. BCW develops an annual plan called the NPDES Compliance Monitoring Strategy (CMS) to determine the frequency of inspections for permitted facilities. BCW also prepares annual inspection goals for DEP regional offices to implement the CMS. Where it is determined that a facility or activity is not in compliance with its permit, DEP may pursue enforcement action. Enforcement actions take different forms, depending on the nature and severity of the violation. Additional inspections and enforcement actions are taken when necessary for facilities with WQM permits or for pollution incidents where a permit is not in place (e.g., spills into surface waters). Table 3 summarizes inspections, enforcement actions and penalties between October 1, 2019 and September 30, 2021.

Table 3. Overview of NPDES Inspections, Enforcement Actions and Penalties
(10/01/2019 – 9/30/2021)

Inspections	15,181
Enforcement Actions	2,002
Penalties Collected	\$3,479,862

Penalties, NPDES permit application fees, and most WQM permit application fees are deposited into the Clean Water Fund, which is used to cover the costs of the Clean Water Program. In fiscal year 2020, DEP spent approximately \$21 million on administering and implementing the Clean Water Program under Chapters 91 and 92a. Approximately seventeen percent (17%) of these expenses are paid for by NPDES and WQM permit application and annual fees, approximately 33% is paid for by an EPA grant, and the remainder is paid for through DEP's general fund allocation. A final-form rulemaking was published by the Environmental Quality Board (EQB) on August 28, 2021 to adjust the permit application and annual fees under Chapters 91 and 92a. As a result, in the years ahead the percentage of program expenses paid for through NPDES and WQM permit application and annual fees will increase to 35% - 40%.

DEP's significant permitting workload coupled with staff reductions over the past decade have prompted BCW to pursue measures to increase permitting efficiency. BCW has developed [Standard Operating Procedures](#) (SOPs) for every type of permit issued by the Clean Water Program to ensure that the application review process is clear to staff and the regulated community.

The [PAG-13 NPDES General Permit for Stormwater Discharges from Small MS4s](#), which became effective on March 16, 2018 requires MS4s that discharge to surface waters that are impaired for nutrients and/or sediment or that discharge to waters in the Chesapeake Bay watershed to develop Pollutant Reduction Plans or TMDL Plans. All the plans require an estimate of their existing pollutant load, and achievement of a required reduction within five years of Plan approval. In most cases that reduction is 10% of the existing sediment load.