

## AUTHORS

M. Rosewin Sweeney  
Thomas M. Langan

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## Environmental Alert

July 2013

### The 2013 Draft MDE General Permit for Stormwater Associated with Construction Activity

The Maryland Department of the Environment (“MDE”) recently released a **draft version of the General Permit for Stormwater Associated with Construction Activity** that, if adopted, will replace the existing 2009 General Permit which expires on December 31, 2013. MDE expects to adopt the Draft Permit effective January 1, 2014. Construction projects that involve more than one acre of disturbance are required to obtain coverage under this permit or an individual permit.

Once adopted, the Permit will be in effect for five years. The Draft Permit contains several important new provisions, including:

- Projects currently covered under the 2009 Permit must apply for coverage under the Draft Permit by December 31, 2013 if the project will not be completed by that date. Projects that fail to meet that deadline must reapply for coverage as a new project. Failing to meet the deadline will mean repeating the public review and comment process for erosion and sediment control plans for the project. The Fact Sheet for the Draft Permit states that applicants who obtained coverage under the 2009 Permit on or after January 1, 2013 will not be required to pay an additional fee for their ongoing projects. Those who obtained coverage prior to January 1, 2013 will be required to pay an additional fee of \$100 to \$2,500, depending on the size of the project.
- The 2009 Permit’s 30- to 45-day public review and comment period for erosion and sediment control plans following submission of a Notice of Intent (“NOI”) to be covered under the permit has been shortened to 14 days.
- The 1 acre of disturbance threshold for permit coverage has been clarified to state that disturbed areas of less than 1 acre but within 1/4 mile of one another and under the control of the same person will be counted together for purposes of permit coverage (e.g., a disturbed area of 0.7 acres within 1/4 mile of a disturbed area of 0.5 acres would require permit coverage).
- For construction activity beginning on or after January 1, 2014, the process to modify permit coverage to increase the area of disturbance by 1 or more acres will require a 14-day public notification period.
- The Draft Permit improves upon the 2009 Permit by allowing the permittee to perform monthly rather than weekly inspections for areas meeting the stabilization requirements of the Code of Maryland and the erosion and sediment control plan.
- The Draft Permit, like the 2009 Permit, requires permittees to implement measures to ensure that the discharge of pollutants from construction projects is consistent with applicable TMDLs. The Chesapeake Bay TMDL and related Watershed Implementation Plan, which were adopted after the issuance of the 2009 Permit, are expressly referenced in the Draft Permit and do not currently contain specific provisions for discharges from construction sites. The practical effect of the TMDL provision will evolve over time as MDE develops policies to implement the Chesapeake Bay TMDL.

A public hearing on the Draft Permit will be held at MDE’s offices at 1800 Washington Boulevard, Baltimore, MD 21230 on August 12, at 10:30 a.m. The deadline for written comments is August 19, 2013. Please contact the authors of this alert if you have any questions on how the Draft Hearing will affect your business. In order to participate in any future judicial review of the Permit, one must submit written or oral comments on the Draft Permit to MDE during the public comment period.

**Click here** to view the Maryland Stormwater Design Manual.

**Click here** for more Information on Maryland’s Integrated Report of Surface Water Quality.