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# Summary Final Report

## Pennsylvania Stormwater Program Review

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Prepared for:  
**U.S. Environmental Protection Agency**  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

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Prepared by:  
**PG Environmental, LLC**  
570 Herndon Parkway, Suite 500  
Herndon, VA 20170

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## 1. Executive Summary

This report includes observations from a recent review of the Pennsylvania Department of Environmental Protection's (PADEP) construction stormwater, industrial stormwater, and municipal separate storm sewer system (MS4) programs. The document also includes several recommendations to enhance PADEP's administration of those programs. The review team found that PADEP's programs have several positive attributes. PADEP has ample authority beyond the federal Clean Water Act (CWA) to control stormwater runoff through Pennsylvania's Clean Streams Law. It also has committed staff in each of its three stormwater program areas. There are strong working relationships between the staff of PADEP's regional offices (ROs) and the county conservation districts (CCDs), along with open lines of communication. Finally, PADEP has anti-degradation requirements in place to provide extra protection for special-protection waters. Dischargers of wastewater, including stormwater, to special protection waters are required to obtain individual National Pollutant Discharge Elimination System (NPDES) permits.

The review team identified some limitations in PADEP's programs, the most significant of which are understaffing, especially in the construction and MS4 programs; limited reviews of post-construction stormwater management plans (PCSMPs) by RO or CCD staff; limited inspections of MS4s by the ROs; the lack of an electronic system to capture and track key construction and MS4 program information; minimal oversight of the ROs by the central office (CO); and fewer recent reviews of the CCDs by the CO or ROs.

## 2. Introduction and Background

### 2.1 Introduction

With assistance from PG Environmental, LLC (PG), the U.S. Environmental Protection Agency (EPA) Region III office conducted a review of PADEP's construction, industrial, and MS4 programs on July 19–22, 2011 and July 25–28, 2011. This report describes the observations generated by the program review. It also includes recommendations intended to improve operation of the programs.

### 2.2 Purpose of Effort

EPA conducts periodic reviews of state programs as part of its oversight responsibilities under the CWA. EPA also discusses program goals and objectives with authorized states as part of annual CWA section 106 grant negotiations.<sup>1</sup> Generally, EPA's program reviews have not included discussions about stormwater. EPA Region III is aiming to integrate stormwater into the annual review process over time. Toward that end, the Region conducted reviews of two state stormwater programs to gain a better understanding of how those programs might be included in the annual program review process. Pennsylvania and Virginia were the two states selected. This report describes the observations from the PADEP review.

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<sup>1</sup> EPA awards section 106 grants to CWA authorized states on an annual basis (subject to congressional appropriations).

## 2.3 Background

PADEP has been authorized to administer the CWA's NPDES program (33 U.S.C. § 1251 et seq.) since June 30, 1978, and to issue general permits since August 2, 1991. PADEP's stormwater programs are governed by the CWA, the Pennsylvania Clean Streams Law (P.L. 1987, June 22, 1937), Pennsylvania's Stormwater Management Act (P.L. 867, October 4, 1978), section 1917-A of the Administrative Code of 1929, Act of April 9, 1929 (P.L. 177, as amended, 71 P.S. § 510-17), and implementing regulations (25 PA Code chapters 92, 93, 95 and 102).

PADEP's organization relies on a central office (CO) plus six regional offices (ROs)—Northwest, Northcentral, Northeast, Southwest, Southcentral, and Southeast. See appendix A for a map of the regions and appendix B for organizational charts of the CO and RO operations covered by the review.

The CO and ROs each play key roles in implementing PADEP's stormwater programs. In the CO, the Bureau of Watershed Management has oversight, policy, and guidance development responsibilities for the construction and MS4 programs. The CO develops implementing regulations, guidance, and issues general permits. The Bureau of Water Standards and Facility Regulation has similar responsibility for the industrial stormwater program. The Bureau of Watershed Management is responsible for construction and MS4 permits. The ROs are similarly organized.

CO staff reported that they have five full-time equivalents (FTEs) to administer the construction and MS4 programs. The ROs collectively have 26 FTEs for these same programs. PADEP did not provide staffing information for the industrial stormwater program.

PADEP has a centralized database, called eFacts that it uses to track permitting, compliance, and enforcement activities for individual NPDES permittees. The system was designed to support PADEP's permitting functions in all environmental media. However, it is not particularly conducive to tracking information relative to general permits. The CO, RO, and CCDs use their own Microsoft Access and Excel files for such purposes. The CO has a database system called Greenport that it uses to secure data reported by the CCDs. The CO also has a system called the NPDES Management System (NMS), which permit writers use to develop individual permits.

CO staff members have been working with their counterparts in PADEP's information office to develop stormwater-specific modules for eFacts or a completely new database system. PADEP's information office generally wants to avoid the development of program-specific databases; however, the office has not had the time or capacity to develop specific tools useful to the stormwater program.

NPDES Permits are public noticed in the *Pennsylvania Bulletin*. PADEP maintains a website (<http://www.portal.state.pa.us/portal/server.pt/community/water/6008>) which provides program information, but permits are not available in electronic format.

### 3. Program Review Approach

In advance of the on-site meetings, the review team forwarded a questionnaire requesting background information on PADEP's three stormwater programs to EPA's CO contacts. A copy of the questionnaire is attached to this report as appendix C. The review team members used PADEP's responses to the questionnaire as the basis for discussion during the on-site reviews. Members of the program review team included the following:

- EPA Region III Review Team Members: Andy Dinsmore and Liz Ottinger
- PG Review Team Members: Jan McGoldrick, Scott Coulson, and Katie Bradshaw

The review team met with program staff of PADEP's CO, three ROs, and three CCDs as noted below. The review team traveled to each of the offices to conduct the reviews. Attendance lists for the meetings are provided as appendix D.

- PADEP Central Office on July 19–20, 2011
- PADEP Southwest Regional Office (SWRO) on July 21–22, 2011
- Allegheny CCD on July 22, 2011
- PADEP Southeast Regional Office (SERO) on July 25–26, 2011
- Delaware CCD on July 26, 2011
- PADEP Southcentral Regional Office (SCRO) on July 27–28, 2011
- Lancaster CCD on July 28, 2011.

The evaluation of operations at the CO and three ROs consisted of two parts—an interview of stormwater program staff and a brief review of stormwater program files, including general permits, permittee inventories (universe lists), erosion and sediment (E&S) control plans, and compliance and enforcement (C&E) documents. The interview included a discussion with several members of the staff regarding the status of the program and its daily operations. Various components of the discussions are detailed in the appropriate sections of this report. The file review consisted of examining the files of several stormwater permittees to determine whether the CO and ROs are properly issuing permits, conducting compliance inspections and other reviews, performing enforcement duties where required, and documenting activities based on the state's stormwater program regulations and standard NPDES program procedures.

The evaluation of the three CCDs also consisted of an interview of stormwater program staff and a brief review of stormwater program files. The interview portion included a discussion with several members of the staff regarding the status of the program and activities performed, such as permitting procedures, inspection procedures, coordination with the CO and ROs, enforcement procedures, and file management processes. The file review portion consisted of a brief review of program files, including permittee inventories (universe lists), E&S control plans, inspection reports, and enforcement documents.

## 4. Observations and Recommendations: Construction Stormwater Program

### 4.1 Overall

The CO is responsible for developing the regulations, policies, and guidance materials for the construction stormwater program; writing the general permit; providing technical assistance to the ROs; and overseeing RO activities. The ROs implement the program with the assistance of the CCDs.

PADEP authorizes coverage for construction activities under its construction general permit (PAG-02). Under certain conditions, it also issues individual NPDES permits for stormwater discharges associated with construction activities. (See sidebar.) PADEP may choose to issue individual NPDES permits for a number of reasons. For example, any entity that discharges to waters with a designated or existing use of High Quality or Exceptional Value is required to have an individual NPDES permit.

PADEP delegates select implementation responsibilities for the construction general permits program to the CCDs by means of delegation agreements (DAs). The DAs specifies the delegation responsibilities and required output measures (ROMs) for each of the three levels of CCD delegation. Level 1 CCDs carry out the educational and administrative aspects of the program (e.g., conducting educational programs, providing information to the public, maintaining application forms and other forms, maintaining E&S program agreements, submitting quarterly reports to PADEP, and referring complaints). Level 2 CCDs perform the administrative functions, including the review of application forms, and some compliance functions, such as complaint handling and site inspections. The bulk of the state's CCDs are in this category. Level 3 CCDs handle the administrative and compliance functions in addition to retaining legal counsel for enforcement actions. ROs are responsible for any activities that have not been delegated to the CCDs within the region. Of the state's 66 CCDs, one has Level 1

#### Conditions Where an NPDES Individual Permit Is Required

- Receiving water is Special Protection Water.
- Discharges contain hazardous pollutants, toxics, or any other substance that has the potential to be a contributor of pollution.
- Discharges that individually or cumulatively have the potential to cause significant adverse environmental impact.
- Discharges to waters where NPDES general permit coverage is prohibited.
- Discharges that are not or will not be in compliance with the terms of the general permit.
- Discharges from a permittee that has failed and continues to fail to comply.
- Discharges subject to categorical point source effluent limitations promulgated by EPA.
- Discharges that do not or will not result in compliance with effluent limitations or water quality standards.
- Discharges from construction activities for which the Department requires an individual NPDES permit.
- Discharges associated with coal mining or non-coal mining activities.
- Discharges associated with construction that may adversely affect state or federal endangered or threatened species.
- Discharges from a site where other point sources require the issuance of an individual NPDES permit.
- Discharges to surface waters identified as impaired waters where the proposed discharge would result in a new change in the volume, rate, or water quality of stormwater.
- Discharges of pollutants of concern to waters for which there is a Total Maximum Daily Load (TMDL) established or approved where the E&S and PCSMP do not include implementation measures.



authority, 53 have Level 2 authority, and 12 have Level 3 authority.

PADEP has developed a separate DA for PCSMP review responsibilities. Currently, only nine of the 66 CCDs have been delegated PCSMP authority. Templates of PADEP's two delegation agreements are provided as appendix E.

The ROs review permit applications, write, and issue individual NPDES permits for stormwater discharges from construction activities. The CCDs assist the ROs in reviewing E&S control plans and conduct inspections.

## 4.2 Facility Universe

At the time of the review, CO staff reported having 2,871 entities authorized for coverage under the construction general permit and 1,757 entities with individual stormwater discharge permits, as follows:

Region	Number of General Permittees	Number of Individual Permittees
Southeast Region	663	447
Northeast Region	259	639
Southcentral Region	1,035	289
Northcentral Region	301	168
Southwest Region	472	137
Northwest Region	141	77
<b>Totals</b>	<b>2,871</b>	<b>1,757</b>

The review team found that the number of permits reported by the CO often conflicted with the number reported by RO staff during the on-site meetings. Some of the discrepancies could be due to CO and RO staff members' using different datasets to pull the numbers and/or different coverage periods. To determine the number of construction general permittees, the CO usually must call the six ROs for the information; the exception is the quarter during which the CCDs submit their annual reports to the CO. PADEP is required to report the number of NPDES permits issued through their 106 grant.

There is no centralized data system to track permitting and compliance/enforcement activities associated with construction general permittees. In general, the CCDs develop their own tracking systems using Microsoft Access or Excel. The CCDs are required under their respective DAs to submit quarterly reports to the ROs. PADEP has a quarterly report form (appendix F) that requires the CCDs to track and report the following:

1. Outreach (number of training events given, technical contacts made, and media events)
2. Plan Reviews (number of initial and follow-up plan reviews conducted and total project and disturbed acres inspected)
3. Permit Processing (number of erosion and sediment control permits issued, NPDES general permits issued, NPDES individual permits issued, and total permit application fees collected)

4. Complaints Received (number of delegated complaints received and inspected and number of nondelegated complaints received)
5. Inspections and Sites (number of sites inspected, total inspections conducted, and number of actions referred to PADEP for enforcement)
6. Enforcement Actions for Level 3 CCDs (number of civil and criminal actions and total amount of settled civil and criminal assessments)
7. Total Program Costs and Hours (estimated or actual total costs CCD has incurred for delegated programs and total hours spent on such programs).

The CCDs submit similar information to the CO on an annual basis. The ROs visited also track information on construction general permittees in their own Microsoft Access or Excel files. RO staff reported that they do not conduct oversight of the general permits tracking data submitted quarterly by the CCDs.

- **Observation 1:** The CO does not readily know the number of active general permittees under the program, except when it receives information from the CCDs in the form of regular quarterly conference calls, annual report data and/or discussions during their triennial review. At all other times of the year, the CO must contact the six ROs or CCDs directly for the information. The review team strongly believes that the CO, as the primary authority for managing and implementing the NPDES program, requires real-time knowledge of the number of active general permittees in the program. The team strongly urges PADEP to develop a mechanism by which the CO can gain routine and steady access to this information so that it can provide appropriate oversight of the program. Receipt of this information should not be delayed pending the development of a computer system to handle construction stormwater permit tracking at the CO. History has shown the latter effort to be fraught with institutional and other delays, making it a long-term strategy for solving what the review team believes to be an immediate concern. In accordance with 40 CFR 123.26(e)(1), state NPDES compliance evaluation programs are to have the procedures and ability necessary for “[m]aintaining a comprehensive inventory of all sources covered by NPDES permits . . . .” PADEP contends that their program meets the requirements in the federal regulation cited and has stated that it would be willing to consider developing such a system if funding and other resources were provided. *See also Observation 6.*
- **Observation 2:** PADEP does not have an efficient principal electronic system to capture and track key program information for the construction stormwater program. eFacts, the main PADEP data management system, suffices for tracking individual stormwater-only permittees (i.e., no process water), but it is less useful for recording information on general stormwater permittees. This problem translates into the CO not possessing knowledge on a real time basis of the universe of active general permittees under the construction stormwater program. *See also Observation 1 above.* The review team recommends that CO staff work with staff of the ROs and CCDs to define the specific metrics to be reported in a specific time frame so that a mechanism can be developed for all parties to have access to this information on a routine basis.

The team further recommends that quality assurance and quality control processes be established for the reported data as part of the CO's oversight role to ensure permit consistency. *See also Observations 3 and 37.*

- **Observation 3:** Based on the review of the DA, the CCDs are required to report the number of inspections conducted for all state regulated activities, including construction activities covered by an NPDES permit, to the CO. All state regulated activities, including both permitted and non-permitted activities are reported under the Required Output Measures (ROMs) which are adopted policy under the DA. The review team believes it is important to be sure that this required reporting metric continue as a requirement in the revision to the DA.

### 4.3 Permitting Activities

The CO is responsible for writing the statewide construction stormwater general permit. The existing construction general permit expires December 7, 2011. CO staff reported that the existing permit will be administratively extended until the new permit is ready for implementation. It should be noted that EPA does not consider expired general permits to be available for extension to new dischargers. In that case, individual permits would be required.

- **Observation 4:** The CO was in the process of finalizing the Department's new construction general permit at the time of the review team's visit and did not have a plan developed for its rollout, including major milestones and general dates for accomplishment. Since that time, the Department has developed a plan for the permit's reissuance, including training. The permit package was also submitted to EPA for review and comment. The review team recommends the Department continue this practice for all expiring permits. *See also Observation 13.*

Applicants seeking coverage under PADEP's construction general permit submit their notices of intent (NOIs) to the applicable CCD. Level 2 and 3 CCDs review the NOIs for technical and administrative completeness. Applicants for individual permits also submit their application materials to the CCDs. The CCDs forward this information to the ROs. The ROs also review application materials and write and issue the individual permits. Level 2 and above CCDs are responsible for reviewing a permittee's E&S control plan.

The existing general permit requires permittees to select, install, and maintain best management practices (BMPs) in accordance with proven specifications and design criteria contained in PADEP's Erosion and Sediment Pollution Control Program Manual (Document #363-2134-008). A permittee is required to use the PADEP E&S control program manual specifications unless the permittee proves that its alternative is at least as stringent as PADEP's specifications. A revised version of the manual was recently completed and became effective March 31, 2012.

PADEP has incorporated post-construction stormwater management into its revised Chapter 102 regulations. EPA recognizes that successfully minimizing water quality problems due to stormwater runoff is dependent on implementing and managing post-construction controls, which emphasizes the significance of PADEP's state-wide standards for post-construction

stormwater control. The current construction general permit requires the development and implementation of a PCSMP, which in turn is to be reviewed by staff at the CCDs or ROs.

- **Observation 5:** PCSMPs contain site specific design of structural BMPs to manage stormwater from new and redevelopment. In order to effectively review PCSMPs and check associated design calculations, CCDs should have a trained engineer on staff, which most do not have. This is likely the reason that only six CCDs currently have been delegated review of the PCSMP. This leaves the workload to the ROs, which do not have the capacity to perform the reviews. In general, ROs only have capacity to review the technical content of PCSMPs for permittees that discharge to high-quality or exceptional-value waters (i.e., the dischargers with individual permits). While the Department has made a commitment to provide training and guidance to CCD and RO staff on all aspects of the program including PCSM, the review teams feels that, if it is not feasible for a PE or engineer to review the plans, that some sort of certification should be granted to ensure that qualified staff are reviewing and approving the PCSMPs. *See also Observation 10.*

PADEP CO and RO staff reported that general permittees rarely submit notices of termination (NOTs). The Delaware CCD confirmed that NOTs are rarely submitted at the district level. As a result, the number of active general permittees reported by the CCDs and, in turn, by the ROs, is likely inaccurate. When the CO develops a count of active general permittees, as it did for the recent EPA review, it assumes that a permit is active if it has been issued in the last five years. CO staff acknowledged that the NOT process is ineffective, noting that they aim to address the issue in the new construction general permit being developed which will incorporate revised state regulations that provide an incentive for terminating permit coverage. In the new permit, PADEP will clearly indicate that the permittee will be held responsible for post-construction management until a NOT is received, in accordance with new Chapter 102 regulations explained below.

- **Observation 6:** Pennsylvania Code 102.7 (a) requires that “the permittee or co-permittee shall submit a notice of termination to the Department or conservation district.” Furthermore Pennsylvania Code 102.7 (c) requires that “[t]he Department or conservation district will conduct a final inspection and approve or deny the notice of termination within 30 days.” The review team believes that this revised regulatory language should assist PADEP to ensure that permitted projects will be tracked through final stabilization. The new requirement should also benefit all of the ROs and CCDs under the new construction permit to ensure that all NOT requirements pursuant to Pennsylvania Code 102.7 are met. Further benefit to the program is seen in Section 102.8(l) of the revised Chapter 102 regulations, which requires PE certifications and as-builts to be attached to NOTs.

It is EPA’s expectation that the NOT issue will be thoroughly addressed through implementation of the new Chapter 102 regulations for new construction general permits. EPA acknowledges that the revised state procedures for NOTs stated above go beyond what is currently required in federal regulations and requirements under the MOA with the State. Also, the Department has

stated that they will be establishing a revised NOT form and instructions so that the regulatory requirements can be implemented effectively.

- **Observation 7:** The review team is unclear whether the CO will be revising individual stormwater permits to parallel the requirements of the new construction general permit or to make them more stringent. The team requests that PADEP articulate its intentions in this area, including the general timing of specific activities.
- PADEP has articulated that a revised permit template will be developed using baseline requirements, since individual permits are customized for site specific requirements and special conditions. The template will be part of the final PAG-02 package and provided to the RO staff.

From the interviews conducted, it was concluded that dischargers with individual permits are often late in applying for permit renewals. It was also noted that, in general, permit applicants have a difficult time completing their application packages because of the lengthy application process and the number of forms that must be completed. In addition, regional review staff noted that it takes several attempts by an applicant before PADEP approves a permit application. PADEP views its construction application process as necessary to achieve compliance with water quality standards-particularly in special protection waters. Those interviewed believe that it takes several attempts to approve an application and issue a permit because some applicants submit poorer quality application materials hoping that PADEP will lower its review standards/criteria. As a result of the number of applications for smaller projects and in an effort to alleviate some of the review burden, PADEP is considering a truncated, easier application process for low-impact projects which will not discharge to special protection waters.

- **Observation 8:** The review team recommends that CO and RO staff collectively evaluate the application components and continue to supply additional training to the regulated community on a recurring basis.

#### 4.4 Compliance and Enforcement Activities

Level 2 and 3 CCDs review E&S control plans and PCSMPs submitted with general permit applications. They host pre-construction meetings and conduct routine and follow-up inspections once a project has begun. CCDs have the responsibility of receiving, and following up on, any complaints. If the ROs receive any complaints about earth-moving activities, they forward such complaints to the CCDs. Six CCDs have been delegated authority to review PCSMPs. PADEP specifies inspection prioritization factors for the delegated CCDs in the ROMs attached to the DAs. The prioritization factors include compliance history, complexity of environmental problems, location with respect to sensitive waters, and other environmental risk criteria.

- *See Observation 3* regarding possible tracking and reporting problems associated with inspections.
- **Observation 9:** New Chapter 102 regulations and the renewed PAG-13 permit contain requirements for the inspection of post-construction BMPs. The results of all

inspections must be fully documented as required in PA Code 102.8(j). PADEP has asserted that a form/template document for these inspections will be available as part of the PAG-02 permit package for ensuring that follow-up inspections are conducted during critical stages of construction as required in PA Code 102.8(k). The purpose of the inspections would be to verify that the BMPs have been built and are performing as designed. *See also Observation 5 above.*

ROs are responsible for issuing field orders (stop work orders), issuing notices of violation (NOVs), and enforcement assessment and settlement. If issues are found during an inspection, the CCD first tries to obtain voluntary compliance. If work on the site needs to be stopped, the CCD contacts the RO to issue a field order. Once non-compliance issues have been addressed, and after discussion with the Department, the CCD may release the field order. The RO or Level 3 CCD, depending on the severity of the non-compliance, may pursue follow-up enforcement and hold a settlement and enforcement meeting. If the RO pursues follow-up enforcement actions, then the CCD provides inspection documentation to the RO.

The SWRO indicated that 13 enforcement actions were taken in 2010, 11 of which were with non-filers. The SWRO focuses on non-filers because of staffing issues. The SWRO enforcement staff is down two people, with the group supervisor as the only person handling enforcement for all activities of the Bureau of Watershed Management.

- **Observation 10:** The SWRO watershed program manager reported that she has difficulty filling and retaining compliance specialists because of the civil service's designation for the position, which translates to lower pay than what others in the program receive. The program's overall ability to undertake compliance and enforcement activities is hampered by understaffing. Factors such as civil service designations exacerbate the problem.

#### 4.5 Data Management

SWRO and the Allegheny CCD are each running out of file space. SWRO staff explained that the RO and its respective CCDs are supposed to archive their files on microfiche, but funding limitations have prevented them from doing so.

- **Observation 11:** The review team is concerned that the lack of file space threatens the overall integrity of SWRO's and the Allegheny CCD's program documentation obligations. Effective engagement in program oversight activities, such as compliance and enforcement, requires that a program have readily accessible and complete file documentation.
- PADEP has stated that it has since revised its records retention policy to assist ROs and CCDs in issues with adequate file space. The Department has further committed to investigate opportunities for long-term storage.

## 4.6 Training, Outreach, and Education

Training sessions provided by the CO include annual training for RO and CCD staff, small group technical training for individual regions or districts, a one week “boot camp” training on basic and advanced topics for new and experienced RO and CCD staff, general and specialized statewide training for the regulated community, and training for technical CO staff. The Department also partners with MAC-IECA on providing certification training on erosion and sediment control and stormwater management.

PADEP held extensive training when the new chapter 102 regulations were finalized. The ROs and CCDs interviewed reported that the training was useful. CO staff reported that they will need to engage in a similar effort to communicate the requirements of the new construction general permit.

- **Observation 12:** The review team agrees that training is an important activity worthy of continued funding and that providing training will be especially important when the new permit is finalized. The team encourages the CO to continue to make training available as is articulated in its implementation plan for the new construction general permit. *See also Observation 4.*

The DA between the CCDs and PADEP has yet to be finalized to include all of the requirements found in the revised Chapter 102 regulations, including post-construction. The revised regulations became effective in November 2010.

- **Observation 13:** The review team recommends that PADEP revise its Delegation Agreement as soon as possible to ensure that its CCDs have the authority and responsibility to uphold all requirements in the renewed construction permit and revised Chapter 102 regulations.

## 4.7 Oversight of Regional Offices and Delegated Authorities

CCDs are scheduled to be evaluated by the CO every three years. The CO also provides individual technical assistance and guidance to the ROs when requested. CO and RO staff indicated that they do not keep track of all of the DAs, mainly because of volume (a total of 66).

- **Observation 14:** The review team has evaluated the E&S and PCSMP delegation agreements and recommends that PADEP add target goals for the number of compliance inspections to be performed each year by the Level 2 and 3 CCDs. Some expectation for the ROs in this area should also be outlined.

The delegation agreement between PADEP and the CCDs indicates that it is the CO’s responsibility to perform program oversight. The CO has historically used three field engineers to perform on-site reviews of the CCDs, in cooperation with staff from the appropriate RO, on a triennial basis. CO staff reported that this schedule was maintained in the early years of the program but has waned to every five years in recent years because of funding and staffing limitations. PADEP has an established Program Evaluation Report form for use by its field engineers. The form contains review items for each level of delegation and is keyed to the ROMs

where appropriate. The review form, however, does not appear to require the CO field engineer to assess the CCDs' staffing resources. The CCDs are to specify their current staff resources in attachment B to the DA. Attachment B requests the name, title, education, licenses/certificates held, and years of program experience for each E&S staff member. It also requests the proportion of the employee's time that is spent performing basic program administration, education and outreach, permit processing, technical review of plans, program compliance and inspections, and enforcement. The responses should reflect the level of delegation responsibility, meaning that in a Level 2 CCD one would see zero percent of an employee's time performing enforcement yet some proportion of time in program compliance and inspections.

- **Observation 15:** The review team believes that the staffing resources committed to in the DA should be evaluated during the on-site reviews if they have not already been evaluated. Furthermore, the results of that assessment should be noted on the Program Evaluation Report form. Finally, the review team urges PADEP to continue performing reviews of its CCDs. This is an important oversight function and responsibility required under the DA.

CO staff indicated that they are conducting reviews of the Department's ROs on a less frequent basis than in previous years. Interviews conducted during the review indicated that the ROs do not receive regular reviews or consistent oversight visits by the CO.

- **Observation 16:** The review team strongly encourages the CO to implement and maintain a review program that involves routine assessment of operations at the RO level in addition to those on-site CCD reviews conducted, which would include inspection oversight visits and enforcement response oversight.

## 5. Observations and Recommendations: Industrial Stormwater Program

### 5.1 Overall

The CO is responsible for policy and regulation/guidance development for the industrial stormwater program. The CO is also responsible for developing and issuing the general permit for industrial stormwater discharges. ROs are predominantly responsible for program implementation. The ROs prepare and issue individual industrial stormwater permits, inspect permitted facilities, identify non-filers, receive and respond to complaints, and conduct compliance and enforcement activities. The CO may conduct training to support the ROs and provide technical assistance on complicated or controversial matters. The CO also provides guidance on enforcement matters.

### 5.2 Facility Universe

The CO maintains the eFacts system to identify and track individual and general industrial permittees. The ROs are responsible for inputting permit and facility information into the system.

- **Observation 17:** The CO and ROs are able to provide counts of industrial stormwater-only permits. They are, however, unable to provide counts of industrial



facilities that are permitted for both process wastewater and stormwater in a single permit. The team strongly urges PADEP to develop a mechanism by which the CO can gain routine and steady access to this information.

- **Observation 18:** During the review process the review team learned that there is no specific mechanism in place to identify industrial stormwater non-filers. A majority of the non-filers are identified from complaints. SERO staff reported that they also engage in some focused, sector-specific inspection efforts. Pursuant to 40 CFR 123.26(b)(1), a state program shall maintain “[a] program which is capable of making comprehensive surveys of all facilities and activities subject to the State Director’s authority to identify persons subject to regulation who have failed to comply with permit application or other program requirements.” The review team recommends that a specific mechanism be developed for identifying non-filers and ensuring that the identified facilities obtain permit coverage.

### 5.3 Permitting Activities

The current industrial general permit was issued December 5, 2010 and expires December 5, 2015. As with the construction stormwater program, individual industrial stormwater permits are issued when coverage under the general permit may not be granted. Individual permits may also be required if a facility has had compliance problems in the past. Most of the time, individual permits are issued if the receiving water is a special-protection water. The discharger may also request coverage under an individual permit. ROs use the NMS, which is maintained by the CO, to generate permit limits; eFacts is used for tracking permitting activities.

- **Observation 19:** The review revealed that permit application renewals are rarely submitted on time and that there currently is no mechanism or capacity in place to proactively identify and remind entities of the obligation to file a renewal application. This comment is similar to one made under the construction stormwater program.
- The Department has recently imposed minimal annual permit fees, including reissuance fees, and believes that this associated invoice process will serve to remind permittees of their re-filing obligation. It is believed that this could also further improve performance regarding applications for re-issued permits.

### 5.4 Compliance and Enforcement Activities

SERO staff inspects individual stormwater-only permittees and facilities with permits for stormwater and process water annually if they are major facility permittees and every two years

if they are minor facility permittees.<sup>2</sup> There are very few individual stormwater-only permittees,

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<sup>2</sup> *Major facility* means any NPDES facility or activity classified as such by the Regional Administrator, or in the case of approved state programs, the Regional Administrator in conjunction with the State Director (§122.2). Major municipal dischargers include all facilities with design flows of greater than 1 million gallons per day and facilities with EPA/state-approved industrial pretreatment programs. Major industrial facilities are determined based on specific ratings criteria developed by EPA or are classified as such by EPA in conjunction with the state. All other facilities are classified as minor facilities.

so the majority of the regularly scheduled inspections are for facilities permitted for stormwater and process water. SERO staff inspects general stormwater-only permittees only if they receive a complaint. In January 2011, SCRO began a program for inspecting industrial stormwater-only permittees at least once during their permit term (once every five years) and inspecting major permittees annually as part of a multi-media inspection program. Prior to this change, SCRO staff inspected the facilities only when they received a complaint.

- **Observation 20:** Federal regulations at 40 CFR 123.26(b)(2) require the state to maintain “[a] program for periodic inspections of the facilities and activities subject to regulation.” The review team believes that each PADEP RO should develop its own strategy for inspecting industrial stormwater permittees that includes a minimum requirement of one inspection per permit term. The strategy should include follow-up inspection procedures when problems are identified.
- **Observation 21:** SERO has dedicated one inspector to each county in its region, which has enabled the RO to have inspection presence in the field. The staff believes these efforts have improved compliance across the region. The review team encourages all ROs to have a strategy in place for improving compliance, including methods for measuring compliance.

The compliance specialists in the ROs were aware of the CO’s draft enforcement response guidelines (Document no. 363-4000-002). Staff also reported using the penalty matrix in the document for consistency purposes.

## 5.5 Data Management

The CO maintains the NMS used by the ROs to generate permit limits and other supporting documents for the industrial stormwater program. The CO has access to information on the individual industrial stormwater permittees through eFacts.

## 5.6 Training, Outreach, and Education

CO and RO personnel reported that they have benefitted from the technical assistance and training received through CO-sponsored events and through routine meetings and phone conferences.

The CO does not typically offer training on industrial stormwater permitting issues. SERO staff reported that training for permit writers is limited to on-the-job training and free training, when available. SCRO staff reported that their inspectors received training in 2010 to aid them in inspecting industrial stormwater general permittees. Most new inspectors in the SCRO receive on-the-job training.

- **Observation 22:** The review team recommends that the CO identify opportunities to secure or provide training for experienced permit writers on a periodic basis. RO inspectors reported a need for learning new techniques/approaches.

## 5.7 Oversight of Regional Offices

The CO does not conduct reviews of the ROs but does review individual permits for compliance with the NMS. Additionally, the CO provides individual technical assistance and guidance to the ROs as requested. The CO does not provide oversight of RO inspection activities. It does, however, issue permitting guidance and work with the ROs on issues when requested. The CO may also assist ROs with enforcement actions.

- Observation 23:** From the interviews conducted during the review, the team found that historically regional staff used to meet with the CO three times per year to discuss program issues, but budget constraints have eliminated such meetings in the last four years. The review team strongly encourages the CO to implement and maintain a review program that involves routine assessment of operations at the RO level, to include inspection oversight visits and a review of enforcement responses.

## 6. Observations and Recommendations: MS4 Program

### 6.1 Facility Universe

CO staff reported having two Phase I MS4 permittees (Philadelphia and Allentown) and approximately 770 Phase II MS4s. The majority of the Phase II MS4s are covered under the MS4 general permit.

MS4 Permit Type	Northcentral	Northeast	Northwest	Southeast	Southcentral	Southwest	Statewide
Municipalities	421	393	390	239	546	577	2,566
Phase I MS4 Individual Permits	0	1	0	1	0	0	2
Phase II MS4 General Permits	7	64	20	163	153	183	590
Phase II MS4 Individual Permits	7	47	7	47	13	28	149
Total Number of Permits Waived	6	50	9	10	33	92	200
Total Number of Permits Issued	14	112	27	211	166	211	741

- Observation 24:** Although the universe of MS4 facilities is relatively static, the CO and ROs report varying numbers. In addition, the CO reported only two federal facilities as having an MS4 permit. *See Observation 26* for a recommendation and additional information.

### 6.2 Permitting Activities

The review team believes that the effectiveness of the MS4 stormwater program begins with a strong permit. EPA is committed to working with PADEP to ensure the revision of PAG-13 achieves this aim. EPA Region III had the opportunity to review numerous versions of PADEP's draft PAG-13 permit and offered comments. EPA and the Department worked together extensively to reissue the permit. The renewed permit was published September 17, 2011, with

an effective date of March 16, 2013. The current version of the permit was extended through March 15, 2013.

- **Observation 25:** Staffing is insufficient in the CO and ROs to fully implement the MS4 program as it currently stands and as envisaged under the revised PAG-13. For example, the SCRO has one engineer who is responsible for 173 MS4s, which is not an atypical situation. The CO is down several staff because of turnovers and budget cuts. The review team believes that these capacity limitations will impede PADEP in implementing program activities such as the review of MS4 Total Maximum Daily Load (TMDL) Plans and Chesapeake Bay Pollutant Reduction Plans. The review team suggests that PADEP consider undertaking a review of current staff available vs. the staff necessary to effectively implement the program or some other type of investigation that would provide it with the leverage it needs to request additional resources for the MS4 program. *See also Observation 29.*
- **Observation 26:** PADEP has identified and permitted two federal facilities under its MS4 program. The review recommends that PADEP conduct further investigation (in addition to the information provided by EPA and GIS data) to determine if federal facilities are located in urbanized areas and whether additional MS4 coverage is needed. CO staff reported having sent notification letters to federal facilities informing them of their requirement to apply for MS4 permit coverage, but the facilities were not responsive. The review team encourages PADEP to develop a strategy for ensuring that identified federal facilities obtain permit coverage. If necessary, EPA Region III can intervene if responses are not received or if enforcement assistance is needed.
- **Observation 27:** The individual MS4 permit is almost identical to the general MS4 permit. The individual permit does not have any special requirements or require reviews for discharges to high-quality or exceptional-value (HQ/EV) waters. In keeping with priorities under the other two stormwater programs, the review team encourages PADEP to include special requirements in permits with discharges to HQ/EV waters.
- PADEP has modified the individual permit template to include additional anti-degradation requirements for discharges to special protection waters. In addition, the individual permit writer within the Department will add or include other site specific appropriate terms and/or conditions in the permit consistent with the authorization being provided.

### 6.3 Compliance and Enforcement Activities

The ROs are responsible for receiving and reviewing MS4 annual reports, as well as performing inspections. The CO reported that its ROs have limited ability to perform inspections of MS4s because of budget cuts and staff changes. To date, no formal compliance inspections of MS4 permittees have been conducted by the ROs or the CO for either the Phase I or Phase II MS4s. SERO staff reported that they had conducted 5 to 10 compliance assistance visits (not formal

compliance inspections) in 2010, which constitutes 2 to 5 percent of the region’s overall MS4s (n=211). RO staff each reported that while ideally they would like to perform additional MS4 inspections, limited staffing and the expansive number of permittees makes that goal seem impossible to achieve. While the review team understands the expanse of this program in Pennsylvania, that is not a valid reason for some regions having yet to perform an inspection since the program’s inception in 2003.

- **Observation 28:** Federal regulations at 40 CFR 123.26(b) and (b)(2) require that “[s]tate programs shall have inspection and surveillance procedures to determine, independent of information supplied by the regulated persons, compliance or noncompliance with applicable program requirements. The State shall maintain: . . . (2) [a] program for periodic inspections of the facilities and activities subject to regulation . . .” The review team urges PADEP to conduct routine compliance inspections of its MS4s. One consideration might be to rotate among a sizeable proportion of the permitted universe according to risk-based criteria.
- **Observation 29:** The review team finds that PADEP’s MS4 stormwater program is severely understaffed. The program has recently begun to obtain annual fees from individual permittees to recoup some of the program costs. These fees will help in maintaining existing staff but will not be sufficient to enable PADEP to add additional staff to carry out inspections of its MS4s, among other aspects of the MS4 program that are also lacking. *See also Observation 25.*

RO staff reported that they rely on the annual reports as their means for assessing program compliance by the MS4s. As part of this review, a sampling of MS4 files were reviewed at each RO. In SWRO, the staff engineer reviews the annual reports and calls those MS4s for which he has issues or questions. The review team did not find any of the MS4 files it reviewed to include documentation that SWRO had corresponded with permittees regarding annual report deficiencies. SWRO staff reported that they do not have the resources for any additional follow-up activities, such as site inspections or visits. SCRO tracks the submittal of MS4 annual reports but does not review them due to lack of program resources. In SERO, the compliance specialist focuses most of his time on reviewing annual reports, preparing and issuing detailed comment letters, and issuing NOV’s where appropriate. When he has questions or concerns, he calls the MS4s and visits them, as necessary, to address the issues; however, the visits are not considered formal compliance inspections. Because the SERO specialist does not use a standard form or follow standardized NPDES compliance inspection procedures for documenting his visits, appropriate credit is not given for his efforts.

- **Observation 30:** The review team strongly urges PADEP to implement a program wherein annual reports are tracked and reviewed with concerns addressed. The program should include appropriate documentation requirements to support compliance and enforcement efforts should those become necessary. Documentation of assessment/oversight of the permittees is critical to an effective stormwater compliance and enforcement program. The federal regulations at 40 CFR 123.26(a) require state compliance evaluations programs to “have procedures for receipt, evaluation, retention and investigation for possible enforcement of all notices and

reports required of permittees and other regulated persons (and for investigation for possible enforcement of failure to submit these notices and reports).”

- **Observation 31:** The review team recommends that a new annual report form be developed for the Phase II MS4 Program. During interviews it was articulated that regional staff believe the reporting requirements do not clearly articulate what is expected of MS4s and therefore the ROs do not receive the best information from permittees to accurately assess compliance. The review team notes that EPA Region III stormwater personnel have already agreed to work with PADEP on a revised annual report form as part of the new PAG-13 permit.

The review further revealed that there has been no guidance issued regarding compliance and enforcement for the MS4 program from the CO to the ROs.

- **Observation 32:** The review team strongly encourages the CO to work with its ROs to develop standard operating procedures and guidelines for compliance and enforcement activities under the MS4 program. Additionally, PADEP should consider mechanisms for ensuring the information is shared with appropriate parties across the state, perhaps through an annual or biannual meeting. The review team appreciates that the CO has a compliance and enforcement strategy document (document no. 363-4000-004) that indicates the types, frequency, and procedures for inspections. The team believes, however, that additional detail should be provided to the ROs specific to the MS4 program.

PADEP’s MS4 permits specify program areas and/or minimum control measures (MCMs). The fourth MCM requires BMPs for municipalities and construction site operators to address stormwater runoff from active construction sites. PADEP allows permittees to rely on CCDs (Level 2 and above) to comply with MCM Number 4. As a result, many MS4 permittees have established memorandums of understanding (MOUs) with their respective CCDs to ensure that the requirements of MCM Number 4 are being met.

- **Observation 33:** Many MS4 permittees indicate in their annual reports that the CCDs have completed activities related to MCM Number 4. However, how the MS4 permittees coordinate with the CCDs to make this determination is unclear. For example, question 14D in the annual report form asks MS4 permittees to answer the question, “What was done in the past permit year to require construction site operators to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste?” Many MS4 permittees cannot and do not provide information on the number of inspections completed or follow-up actions conducted by the CCDs in order to fulfill their MS4 permit requirements. Whether the RO staff that review annual reports are reviewing activities completed by CCDs to ensure compliance with MCM Number 4 is also unclear. The review team recommends that the ROs work with the MS4 permittees to ensure that the requirements of MCM Number 4 are being met through the CCDs. The recommended remedy is for MS4s to have an agreement such as an MOU/MOA with the CCDs so that the CCD is responsible for reporting MCM 4 requirements.

- **Observation 34:** Enforcement by PADEP appears limited to “failure to submit annual report” notices across the program with the exception of SERO, where numerous NOV’s for annual report deficiencies are documented. The limited scope of enforcement action could be due to a number of factors, including the lack of inspections at MS4s and the lack of enforceable requirements in Phase II MS4 permits. It is the responsibility of the CO to ensure that ROs are completing inspections to ensure compliance with the MS4 program. Federal regulations at 40 CFR 123.26(b) require that “[s]tate programs shall have inspection and surveillance procedures to determine, independent of information supplied by the regulated persons, compliance or noncompliance with applicable program requirements.” In addition, federal regulations require that state NPDES compliance evaluation programs have the ability to conduct “(2) [i]nitial screening . . . of all permit . . . information to identify violations and to establish priorities for further substantive technical evaluation; (3) when warranted, conducting a substantive technical evaluation following the initial screening of all permit . . . compliance information to determine the appropriate agency response.” (40 CFR 123.26(e)).
- **Observation 35:** PADEP’s attention to the MS4 program appears limited in comparison to its attention to the construction and industrial stormwater programs. Annual report submissions are not always recorded; reviews of the reports are not always documented; comprehensive audits/inspections are not performed; and follow-up actions are not always taken when deficiencies are found.

#### 6.4 Data Management

- **Observation 36:** PADEP’s eFacts system has little utility to the MS4 program. CO staff reported their desire to develop a module for the MS4 program or a separate database system, but those efforts have been curtailed over recent years. As with the construction stormwater program, the review team encourages CO and RO staff to coordinate basic program elements that should be reported, by whom, and over what time frames. The CO and ROs should have ready access to data on permitted MS4s. *See also Observation 2.*

#### 6.5 Training, Outreach, and Education

- **Observation 37:** RO staff reported that training for RO personnel is limited to on-the-job training. Outside training is available but funding limitations restrict RO participation.
- **Observation 38:** RO staff also reported that there is limited training from the State available for MS4 permittees. Furthermore, staff in the ROs indicated that they believe training must be provided for all affected parties when the new MS4 permit is released. The review team notes that EPA and PADEP have a combined training program scheduled on the new PAG-13 in the January to March 2012 time frame to address this concern. However, it is noted that with municipal turnover and constant

technological advances in the stormwater arena, training will have to be provided throughout the permit term.

- **Observation 39:** It is anticipated that PA MS4s will challenge the additional requirements anticipated in the new general permit. The review team notes that concerns like these can be ameliorated somewhat through robust implementation and outreach efforts on the part of PADEP.

## 6.6 Oversight of Regional Offices

- **Observation 40:** There is high turnover in municipal management throughout Pennsylvania, so implementation of the MS4 program is often inconsistent at the local level. The review team believes these observations argue for an increased compliance inspection presence on the part of the ROs in addition to continued training, enhanced outreach and communication programs.

## 7. Summary of Recommendations

Recommendations made throughout this report generally fall into the categories of capacity and funding; universe of construction general permittees; stormwater modules or other electronic tracking systems; construction and PCSMP reviews; new construction general permit; industrial stormwater compliance; MS4 universe and inspections; MS4 annual report reviews; and CO oversight of CCDs and ROs. Please note that not all observations in the report include recommendations.

### 7.1 Capacity and Funding

- *Regarding the civil service's designation for compliance specialists.* The review team recommends that the CO work with responsible parties in state government to adjust the classification for compliance specialists. **(Observation 10)**
- *Regarding training for permit writers and inspectors.* The review team recommends that the CO identify opportunities to secure or provide training for experienced permit writers on a periodic basis. RO inspectors reported a need for learning of new techniques/approaches. **(Observation 22)**
- *Regarding MS4 program staffing.* The review team suggests that PADEP consider undertaking a staffing study or other brief investigation that would provide it with the leverage it needs to request additional resources for the program. **(Observations 25 and 30)**
- *Regarding the inconsistent implementation of the MS4 program due to high municipal staff turnover.* The review team believes these observations argue for an increased compliance inspection presence on the part of the ROs in addition to continuous training programs throughout the permit term. **(Observation 40)**



## 7.2 Universe of Construction General Permittees

- *Regarding the tracking of active general construction permittees by the CO.* The team strongly urges PADEP to develop a mechanism for the CO to gain routine and steady access to general permittee information. Receipt of this information should not be delayed pending the development of a more construction stormwater-friendly computer system at the CO. History has shown the latter effort to be fraught with institutional and other delays, making it a long-term strategy to solving what the review team believes to be an immediate problem. **(Observation 1)**

## 7.3 Stormwater Modules or Other Electronic Tracking Systems

- *Regarding the tracking and reporting of construction stormwater permittees.* The review team recommends that the CO work with staff of the ROs and the CCDs to define the specific metrics to be reported in a specific time frame for construction stormwater permittees so that a mechanism can be developed for all parties to have access to this information on a routine basis. The review team further recommends that quality assurance and quality control processes be established for the reported data. **(Observation 2)**
- *Regarding the tracking and reporting of industrial stormwater permittees.* The team strongly urges PADEP to develop a mechanism by which the CO can gain routine and steady access to information on the number of industrial facilities that are permitted for both process wastewater and stormwater in a single permit. **(Observation 17)**
- *Regarding the tracking and reporting of inspections of construction permittees.* The review team believes that it is important to be sure that the required inspection reporting metric be specified and included in the revision to the DA. **(Observation 3)**
- *Regarding the tracking and reporting of NOT submissions for construction permittees.* The review team believes that PADEP should articulate a plan to ensure that NOTs will be tracked by all of its ROs and CCDs under the new construction permit to ensure that all NOT requirements pursuant to Pennsylvania Code 102.7 are met. Moreover, PADEP should articulate its plan for implementing Pennsylvania Code 102.8(l), which requires PE certifications and as-builts to be attached to NOTs. **(Observation 6)**
- *Regarding the tracking of MS4 permittees.* The review team encourages CO and RO staff to coordinate basic program elements that should be reported, by whom, and over what time frames with regard to the MS4 program. The CO and ROs should have ready access to data on permitted MS4s at all times. **(Observation 37)**

## 7.4 Construction and PCSMP Reviews

- *Regarding the evaluation of PCSMPs.* The review team recommends that PADEP develop a mechanism to ensure that an engineer or appropriately trained staff person review all PCSMPs and document the results and any follow-up actions. **(Observation 5)**
- *Regarding the evaluation of BMP installations.* The review team recognizes that PADEP has committed to developing a form/template document for ensuring that

follow-up inspections are conducted during critical stages of construction to verify that the BMPs are built and perform as designed (PA Code Chapter 102.8(k)). The team recommends that document be available with both the PAG-02 and PAG-13 permits so as to ensure that the inspection procedures and results are fully documented.

**(Observation 9)**

## 7.5 New Construction General Permit

- *Regarding the issuance of a new construction general permit.* The review team recommends that the CO develop an implementation plan for reissuance of the general permit. The plan should include major milestones and general dates for accomplishment. This practice would be recommended for all expiring permits. **(Observation 4)**. The review team encourages the CO to incorporate training into its implementation plan for the new construction general permit. **(Observation 12)**
- *Regarding revising individual stormwater permits to parallel the requirements of the new construction general permit or to make them more stringent.* The review team requests that PADEP articulate its intentions in this area, including the general timing of specific activities. **(Observation 7)**

## 7.6 Industrial Stormwater Compliance

- *Regarding the identification industrial stormwater permittees.* The review team recommends that a specific mechanism be developed for identifying industrial stormwater non-filers and ensuring that the identified facilities obtain permit coverage. **(Observation 18)**
- *Regarding the inspection of industrial stormwater permittees.* The review team believes that each PADEP RO should develop its own strategy for inspecting industrial stormwater permittees that includes a minimum requirement of one inspection per permit term. The strategy should include follow-up inspection procedures when problems are identified. **(Observation 20)**. The review team encourages all ROs to have a strategy in place for improving compliance, including methods for measuring such compliance. **(Observation 21)**.

## 7.7 MS4 Universe and Inspections

- *Regarding MS4 permit coverage for federal facilities.* The review team urges PADEP to investigate where federal facilities are located in the state and determine whether MS4 coverage is needed. PADEP should also specify a strategy for ensuring that the identified federal facilities obtain permit coverage. If necessary, EPA Region III can intervene if responses are not received. **(Observation 26)**
- *Regarding MS4 individual permits.* In keeping with priorities under the other two stormwater programs, the review team encourages PADEP to include special requirements in permits with discharges to HQ/EV waters. **(Observation 27)**
- *Regarding the inspection of MS4 permittees.* The review team urges PADEP to conduct routine compliance inspections of its MS4s. One consideration might be to rotate among a sizeable proportion of the permitted universe according to risk-based criteria.

**(Observation 28).** The review team strongly encourages the CO to work with its ROs to develop standard operating procedures and guidelines for compliance and enforcement activities under the MS4 program. Additionally, PADEP should consider mechanisms for ensuring the information is shared with appropriate parties across the state, perhaps through an annual or biannual meeting. **(Observations 32 and 34)**

## 7.8 MS4 Annual Report Reviews

- *Regarding MS4 annual report forms and reviews.* The review team recommends that a new annual report form be developed for the Phase II MS4 Program. The ROs generally do not believe they are receiving the best information from permittees to accurately assess compliance. **(Observation 31).** The team strongly urges PADEP to implement a program wherein annual reports are tracked and reviewed with concerns addressed. The program should include appropriate documentation requirements to support compliance and enforcement efforts should those become necessary. **(Observation 30)**
- *Regarding the role of CCDs in implementing MCM Number 4 of the MS4 permit.* The review team recommends that the ROs work with MS4s to ensure that the requirements of MCM Number 4 in the MS4 permit are being met through the CCDs if an MOU is in place. At a minimum MS4 annual reports should document what specific activities were completed by the CCDs to ensure compliance with MCM Number 4. **(Observation 33).**
- *Regarding MS4 enforcement activities.* Enforcement by PADEP appears limited to “failure to submit annual report” notices across the program with the exception of SERO, where numerous NOV’s for annual report deficiencies are documented. It is the responsibility of the CO to ensure that ROs are completing inspections to ensure compliance with the MS4 program. **(Observation 34)**

## 7.9 Oversight of CCDs and ROs

- *Regarding permit applications.* The review team recommends that CO and RO staff collectively evaluate the application components and continue to supply additional training to the regulated universe on a recurring basis. **(Observation 8)**
- *Regarding the role of the CCDs in the control of non-sediment pollutants.* The review team recommends that PADEP revise its Delegation Agreement as soon as possible to ensure that its CCDs have the authority and responsibility to uphold all requirements in the renewed construction permit and revised Chapter 102 regulations. **(Observation 13)**
- *Regarding oversight of CCDs and ROs.* The review team believes that the staffing resources committed to in the DA should be evaluated during the on-site reviews if they have not already been evaluated. Furthermore, the results of that assessment should be noted on the Program Evaluation Report form. Finally, the review team urges PADEP to continue performing reviews of its CCDs on a regular basis. **(Observation 15)**

The review team strongly encourages the CO to implement and maintain a review program that involves routine assessment of operations at the RO and CCD levels,

including inspection oversight visits and enforcement response oversight.

**(Observation 16)**

- *Regarding CO oversight of the industrial stormwater program.* The review team strongly encourages the CO to implement and maintain a review program that involves routine assessment of operations at the RO level, including inspection oversight visits and a review of enforcement responses. **(Observation 23)**