



**APPROVAL OF COVERAGE UNDER THE GENERAL NPDES  
PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH  
CONSTRUCTION ACTIVITIES  
PAG-02 (2009 Amendment)**

NPDES PERMIT NO: PAG-02

Project Name & Address

Permittee Name & Address

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In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") 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):

from  1 to less than 5 acres of earth disturbance with a point source discharge (or)  
 5 or more acres of earth disturbance

subject to the department's enclosed PAG-02 which incorporates all effluent limitations, monitoring and reporting requirements, and other terms, conditions, criteria and special requirements for the discharge of stormwater from point sources composed entirely of stormwater associated, in whole or in part, with construction activity, as defined in this general permit, to surface waters of this commonwealth, including through municipal separate storm sewers and nonmunicipal separate storm sewer. Authorization to discharge is subject to the implementation of the plans and additional associated information submitted as part of the NOI.

**APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN MAY COMMENCE ON THE DATE OF THE APPROVAL OF COVERAGE, AND IS VALID FOR A PERIOD OF TWO YEARS WHEN CONDUCTED PURSUANT TO SUCH TERMS AND CONDITIONS. COVERAGE MAY BE EXTENDED BY THE DEPARTMENT OR AUTHORIZED CONSERVATION DISTRICT IF A TIMELY ADMINISTRATIVELY COMPLETE AND ACCEPTABLE NOI RENEWAL IS SUBMITTED TO THE DEPARTMENT OR AUTHORIZED CONSERVATION DISTRICT 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 RECEIPT AND ACKNOWLEDGEMENT OF A NOTICE OF TERMINATION FORM AND APPROVAL BY THE DEPARTMENT OR AUTHORIZED CONSERVATION DISTRICT. NO CONDITION OF THIS PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER PENNSYLVANIA, OR FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS OR LOCAL ORDINANCES.**

COVERAGE APPROVAL DATE: \_\_\_\_\_

COVERAGE EXPIRATION DATE: \_\_\_\_\_

AUTHORIZED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

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**GENERAL NPDES  
PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

**PAG-02 (2009 Amendment)**

This permit applies to earth disturbance activities that disturb five (5) or more acres, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves five (5) or more acres of earth disturbance, AND, earth disturbance activities with a point source discharge to surface waters of this commonwealth that disturb from one (1) to less than five (5) acres, or an earth disturbance on any portion, part, or during any stage of, including earth disturbance activities of less than one acre, that are part of a larger common plan of development or sale that involves one (1) to less than five (5) acres of disturbance with a point source discharge to surface waters of this commonwealth.

This permit does not apply to agricultural plowing and tilling, timber harvesting activities, and road maintenance activities.

Earth disturbance activities associated with oil and gas exploration, production, processing or treatment operations or transmission facilities may be required to obtain permit coverage under the Erosion and Sediment Control General Permit-1 (ESCGP-1).

**1. DEFINITIONS**

Note: Terms used in this permit not otherwise defined herein shall have the meaning attributed to them in 40 CFR Part 122.

Accelerated Erosion – The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone.

Authorized Conservation District – A conservation district, as defined in Section 3(c) of the conservation district law (3 P.S. Section 851(c), as amended) that has the authority under a delegation agreement executed with the department.

Best Management Practices (BMPs) – Activities, facilities, measures, planning, or procedures used to protect, maintain, reclaim and restore the quality of waters, and existing and designated uses within this commonwealth. BMPs include PPC Plans, E&S Plans, PCSM Plans, Storm Water Management Act Plans, and other treatment requirements, operating procedures, and practices to control project site runoff, spillage or leaks, and other drainage from the construction activity.

Clean Fill – Uncontaminated, nonwater soluble, nondecomposable, inert, solid material to include soil, rock, stone, dredged material, used asphalt, and brick, block, or concrete from construction and demolition activities that is separate from other waste and is recognizable as such. The term does not include materials placed in or on the waters of this commonwealth unless otherwise authorized. The term "used asphalt" does not include milled asphalt or asphalt that has been processed for re-use.

Co-Permittee – Person(s) identified in this permit as responsible for the discharges of stormwater associated with construction activity who is jointly and individually responsible together with the permittee for compliance with all conditions of this permit and applicable laws.

Department – The Department of Environmental Protection ("DEP") of this commonwealth.

Director – The Director of the Bureau of Watershed Management, or any authorized employee thereof.

Distribution Facilities – A facility owned/operated by a local gas utility that distributes it via lower pressure service lines to small industrial, commercial or residential customers. This earth disturbance is not considered oil and gas exploration, production, processing or treatment operation or transmission facilities, and may need to obtain coverage under an NPDES permit.

Earth Disturbance Activity – A construction or other human activity which disturbs the surface of the land, including, but not limited to, land clearing and grubbing, grading, excavations, embankments, land development, agricultural cultivation and animal heavy use areas, timber harvesting activities, road maintenance activities, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

Effluent Limitation or Standard – A restriction established by the department or the administrator of the Environmental Protection Agency on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters. Effluent limits can be technology based or water quality based and may include BMPs.

Erosion – The natural process by which the surface of the land is worn away by water, wind, or chemical action.

Erosion and Sediment Control Plan (E&S Plan) – A site-specific plan identifying BMPs to minimize accelerated erosion and sedimentation and which meets the requirements of 25 Pa. Code Chapter 102, Rules and Regulations.

Municipality – Any county, city, borough, town, township, or other governmental unit when acting as an agent thereof or any combination of those acting jointly. For the purposes of this definition, town includes an incorporated town.

NOI – Notice of Intent – A request, on a form developed by the department for coverage under this General NPDES Permit for Stormwater Discharges Associated with Construction Activities.

NOT – Notice of Termination – A request, on a form provided by the department, to terminate coverage under this General NPDES Permit for Stormwater Discharges Associated with Construction Activities.

Operator – A person who has one or more of the following:

- (i) Oversight responsibility of earth disturbance activity on a project site or a portion thereof, who has the ability to make modifications to the E&S Plan, PCSM Plan, or site specifications.
- (ii) Day-to-day operational control over earth disturbance activity on a project site or a portion thereof to ensure compliance with the E&S Plan.

Owner – A person who holds legal title to the land subject to construction activity. This term also includes the person(s) who held legal title to the land subject to construction activity at the time such activity was commenced on a site.

Permanent Stabilization – Long-term protection of soil and water resources from accelerated erosion.

Person – Any natural person, partnership, association, corporation, business organization, or any agency, instrumentality or entity of Federal or State Government. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment or both, the term "person" shall not exclude the members of an association and the directors, officers, or agents of a corporation.

Point Source - Any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, Concentrated Animal Feeding Operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged.

Post Construction Stormwater Management Plan (PCSM Plan) – A site specific plan identifying BMPs to manage changes in stormwater runoff volume, rate, and water quality after earth disturbance activities have ended and the project site is permanently stabilized.

Preparedness, Prevention and Contingency Plan (PPC Plan) – A written plan that identifies an emergency response program, material and waste inventory, spill and leak prevention and response, inspection program, housekeeping program, security and external factors, developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of the commonwealth. Potential pollutants at construction activities can include, but are not limited to pesticides, fertilizers, lime, petrochemicals, construction related chemicals and solvents, wastewater, wash water, core drilling wastewater, cement, sanitary waste, or hazardous waste.

Runoff Coefficient – The fraction of total rainfall that will appear at the conveyance as runoff.

Stabilization -The proper placing, grading, constructing, reinforcing, lining, and covering of soil, rock, or earth to ensure their resistance to erosion, sliding, or other movement.

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

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.

Transferee – persons identified through the co-permittee/transferee form as having new responsibility for the discharges of stormwater during construction activities and responsibility for compliance with all conditions of this permit and all applicable laws for discharges of stormwater during the construction activity.

Waters of this Commonwealth – Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

Wetlands – Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

## **2. AUTHORITY AND RESPONSIBILITIES OF THE DEPARTMENT OR AUTHORIZED CONSERVATION DISTRICTS**

- a. The department or authorized conservation district may notify the permittee at any time that the permit terms and conditions are not being met. Upon plan review or site inspection, the department or authorized conservation district may require E&S Plan revisions or other appropriate action to ensure compliance with the conditions of this permit.
- b. The department or authorized conservation district has the right to enter onto the site to conduct inspections, conduct monitoring or require monitoring where necessary in appropriate circumstances such as where a danger of water pollution or degradation is present, or water pollution or degradation is suspected to be occurring from a construction activity subject to this permit. The permittee and co-permittee shall commence such monitoring upon notification from the department or authorized conservation district. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.
- c. The department or authorized conservation district may request copies of records required by this permit, which could include the records required under Part A, Section 3 of this permit.
- d. The department may require by written notice any person authorized by this permit to apply for an Individual NPDES permit. 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 an application.

## **3. NOTICE OF INTENT (NOI) SUBMITTAL**

### **a. General Information and Requirements**

- (1) Persons proposing to discharge stormwater associated with construction activities and eligible persons proposing to expand the scope of a previously authorized construction activity which discharges stormwater, who wish to be covered by this general permit, must submit an administratively complete and acceptable Notice of Intent (NOI) to the department or authorized conservation district and receive authorization from the department or authorized conservation district prior to commencing the construction activity. The NOI shall be filed in accordance with the detailed instructions specified in the NOI instruction package.
- (2) Operators of all construction activities shall develop, implement, and maintain erosion and sediment and postconstruction stormwater management (PCSM) BMPs and other pollution prevention measures required by this permit to minimize accelerated erosion and sedimentation before, during, and after construction activities.
- (3) Erosion and sediment control BMPs shall be designed and implemented to meet the standards and specifications identified in the department's *Erosion and Sediment Pollution Control Manual*, No. 363-2134-008, as amended and updated, or an approved alternative, when legally authorized.
- (4) PCSM BMPs shall be designed and implemented to meet the standards and specifications identified in the department's *Stormwater Best Management Practices Manual*, No. 363-0300-002, as amended and updated, or approved alternative, when legally authorized.

- (5) The E&S Plan, PCSM Plan, and Preparedness, Prevention and Contingency (PPC) Plan shall identify appropriate BMPs that will be implemented to ensure that existing and designated uses of surface water are protected and maintained.
  - (6) The permittee or co-permittee shall have the E&S Plan, PPC Plan, PCSM Plan, and other documents required by this permit maintained at the site and available for review by the department, conservation district or other authorized local, state, or federal agent or representative.
- b. The following activities are not eligible for coverage under this permit:
- (1) Discharges to waters with a designated or existing use of High Quality or Exceptional Value pursuant to 25 Pa. Code Chapter 93;
  - (2) Discharges which contain hazardous pollutants, toxics, or any other substance which - because of its quantity, concentration, or physical, chemical, or infectious characteristics - may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into surface waters of this commonwealth;
  - (3) Discharges which individually or cumulatively have the potential to cause significant adverse environmental impact;
  - (4) Discharges to waters for which NPDES general permit coverage are prohibited under 25 Pa. Code Chapter 92;
  - (5) Discharges which are not, or will not be, in compliance with any of the terms or conditions of this general permit;
  - (6) Discharges from a person who has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, and schedule of compliance or order issued by the department;
  - (7) Discharges subject to categorical point source effluent limitations promulgated by EPA;
  - (8) Discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards;
  - (9) Discharges from construction activities for which the department requires an Individual NPDES permit to ensure compliance with the Clean Water Act, the Clean Streams Law, or rules and regulations promulgated thereto; or where a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
  - (10) Discharges associated with coal mining or noncoal mining activities pursuant to the department's regulations at 25 Pa. Code Chapters 77 and 86-90;
  - (11) Discharges associated with a construction activity that may adversely affect a Pennsylvania or federal endangered or threatened species or its critical habitat;
  - (12) Discharges from a site where other point source(s) require the issuance of an Individual NPDES permit; and
  - (13) Discharges to surface waters identified as impaired waters where the proposed discharge will result in a net change (pre-condition to post condition) in volume or rate or water quality of the stormwater.
  - (14) Persons are not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless the E&S and PCSM Plans include implementation measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, persons must implement conditions applicable to their discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to the discharge, persons must implement necessary steps to meet that allocation.
- c. Persons requesting a renewal of coverage under this general permit must submit to the department or authorized conservation district 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 or authorized conservation district 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 or authorized conservation district is unable, through no fault of the permittee, 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 permittee is, and has been, operating in compliance with the terms and conditions of the permit. The permittee shall be responsible for complying with the final renewed, reissued or amended General Permit. If the permittee is unable to comply with the renewed, reissued or amended General Permit, the permittee must submit an application for an individual permit within 90 days of publication of this General 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.

The General NPDES Permit for Stormwater Discharges Associated With Construction Activities PAG-02 is issued December , 2009 and shall expire at midnight December , 2011 unless reissued or extended on or before this date by the department.

BY: \_\_\_\_\_  
GLENN RIDER, DIRECTOR  
BUREAU OF WATERSHED MANAGEMENT

SAMPLE

## PART A

### EFFLUENT LIMITATIONS, MONITORING, AND REPORTING REQUIREMENTS

#### 1. EFFLUENT LIMITATIONS

##### a. BMPs

This permit establishes narrative performance based effluent limitations in the form of BMPs identified in E&S Plans, PCSM Plans, and PPC Plans which control the rate, volume and quality of stormwater runoff and associated pollutants from being discharged into surface waters and which replicate preconstruction infiltration and runoff conditions to the maximum extent practicable.

##### b. Applicable Effluent Limitations

All stormwater discharges associated with construction activities must comply with applicable effluent limitations established in 25 Pa. Code Chapters 91, 92, 93, 96, 102, and 105.

##### c. Water Quality Based Effluent Limitations

Water quality based effluent limitations shall be imposed under applicable state and federal law when necessary to ensure that the water quality standards of the receiving water are attained. Discharges of stormwater associated with a construction activity shall not result in a violation of such water quality standards.

#### 2. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

##### a. Visual Inspections

The permittee and co-permittee(s) must ensure that visual site inspections are conducted weekly, and within 24 hours after each measurable rainfall event throughout the duration of construction and until the receipt and acknowledgement of the NOT by the department or authorized conservation district. The visual site inspections and reports shall be completed in a format provided by the department, and conducted by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that E&S BMPs and PCSM BMPs are properly constructed and maintained to effectively minimize pollution to the waters of this commonwealth. A written report of each inspection shall be kept and include at a minimum:

- (1) a summary of site conditions, E&S BMP and PCSM BMP, implementation and maintenance and compliance actions; and
- (2) the date, time, name and signature of the person conducting the inspection.

##### b. Noncompliance Reporting

Where E&S, PCSM or PPC BMPs are found to be inoperative or ineffective during an inspection, or any other time, the permittee and co-permittee(s) shall, within 24 hours, contact the department or authorized conservation district, by phone or personal contact, followed by the submission of a written report within 5 days of the initial contact. Noncompliance reports shall include the following information:

- (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 noncompliance, 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 noncompliance; and
- (4) the date or schedule of dates, and identifying remedies for correcting noncompliance conditions.

**c. Supplemental Monitoring**

The department or authorized conservation district may require additional monitoring where an increased risk of potential water pollution is present, or water pollution is suspected to be occurring from a construction activity subject to this general permit, or for any reason in accordance with, 25 Pa. Code Section 92.41. The permittee or co-permittee shall commence such monitoring upon notification from the department or authorized conservation district.

**3. RECORD KEEPING**

**a. Retention of Records**

The permittee and co-permittee(s) shall retain records of all monitoring information including copies of all monitoring and inspection reports required by this permit, and records of data used to complete the Notice of Intent for this permit, for a period of three years from the date of the termination of coverage under this permit.

**b. Reporting of Monitoring Reports**

Monitoring results shall be submitted to the department or authorized conservation district upon request.

**4. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT**

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

SAMPLE

**PART B**  
**STANDARD CONDITIONS**

**1. MANAGEMENT REQUIREMENTS**

**a. Permit Modification, Termination, or Revocation and Reissuance**

- (1) The general permit will expire 2 years from the date of its issuance. The department will publish a notice in the *Pennsylvania Bulletin* of the draft, renewed, or reissued general permit or of any amendments to this general permit, and after a comment period notice of the final, renewed, reissued or amended general permit will be published in the *Pennsylvania Bulletin*. Any person with an unexpired approval of coverage under the general permit shall be responsible for complying with the final renewed, reissued or amended general permit. Such persons shall be covered by the general permit even if the discharger has not submitted a separate NOI to be covered by such final renewed, reissued or amended general permit. Such person may request coverage under an individual permit. See 40C.F.R. § 122.28(b)(2)(vi); 25 Pa. Code § 92.81(c) and (d).
- (2) This permit may be modified, suspended, revoked, reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapters 92 and 102, or to require compliance with updated Effluent Limitation Guidelines, impaired water listings, or new TMDL's.
- (3) The department may modify, revoke, suspend, or terminate previously issued coverage under this general NPDES permit and require the stormwater discharger to apply for and obtain an Individual NPDES permit in accordance with 25 Pa. Code Chapters 92 and 102.
- (4) The filing of a request by the permittee or co-permittee for a permit or coverage modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not eliminate any existing permit conditions.
- (5) Permit modification or revocation will be conducted according to 25 Pa. Code Chapters 92 and 102.

**b. Duty to Provide Information**

- (1) The permittee or co-permittee(s) shall furnish to the department or authorized conservation district within 30 days of the date of request any information that the department or conservation district may request to determine whether cause exists for modifying, revoking, reissuing, or terminating this permit or coverage approved under this permit or to determine compliance with this permit.
- (2) The permittee or co-permittee shall furnish, upon request, to the department or authorized conservation district copies of records required to be kept by this permit.
- (3) When the permittee or co-permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the NOI, E&S Plan, PCSM Plan, or PPC Plan or in any other report to the department or authorized conservation district, the permittee or co-permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information.
- (4) The permittee or co-permittee shall give seven calendar days advance notice to the department or authorized conservation district of any planned physical alterations or additions to the permitted facility which could, in any way, substantially affect the quality and/or quantity of stormwater discharged from the activity.

**c. Signatory Requirements**

Documents required, submitted, or maintained under this permit shall be signed in accordance with the following:

- (1) Notices of Intent, Transferee/Co-permittee Form, and Notices of Termination.
  - (a) Corporations: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

- (b) Partnerships or sole proprietorships: a general partner or the proprietor, respectively; or
  - (c) Municipalities, State, Federal, or other public agencies: either a principal executive officer or ranking elected official such as: (1) the chief executive officer or secretary of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (2) All reports, plans, documents, and other information required by the permit or requested by the department or authorized conservation district shall be signed by a duly authorized representative of the permittee.
- (3) If there is a change in the duly authorized representative of the permittee or co-permittee, respectively, the permittee or co-permittee shall notify the department or authorized conservation district within 30 days of the change.

**d. Transfer of Ownership or Control**

- (1) This permit is not transferable to any person except after notice and acknowledgment by the department or authorized conservation district.
- (a) In the event of any pending change in control or ownership of facilities from which the authorized discharges emanate, the permittee or co-permittee shall notify the department or authorized conservation district using the form entitled "Transferee/Co-permittee Application" of such pending change at least 30 days prior to the change in ownership or control.
  - (b) The Transferee/Co-permittee Application form shall be accompanied by a written agreement between the existing permittee and the new owner or operator stating that the existing permittee shall be liable for violations of the permit up to and until the date of coverage transfer and that the new owner or operator shall be jointly and individually liable for permit violations under the permit from that date on.
  - (c) After receipt of an administratively complete and acceptable transferee/co-permittee application form, the department or authorized conservation district shall notify the existing permittee and the new owner or operator of its decision concerning approval of the transfer of ownership or control. Such requests shall be deemed approved unless the department or authorized conservation district notifies the applicant otherwise within 30 days.
- (2) The department or authorized conservation district may require the new owner or operator to apply for and obtain an Individual NPDES permit.
- (3) For purposes of this permit, operators shall include general contractors. If, prior to construction activities, the owner is the permittee and an operator/general contractor is later identified to become a co-permittee, the owner shall:
- (a) Notify the department or authorized conservation district by submitting an administratively complete and acceptable Transferee/Co-permittee Application Form.
  - (b) Ensure that monitoring reports and any other information requested under this permit shall reflect all changes to the permittee and the co-permittee name.
- (4) After receipt of the documentation described in (3) above, the permit will be considered modified by the department or authorized conservation district. For the purposes of this permit, this modification is considered to be a minor permit modification.
- (5) Upon authorization of a change in ownership or control, the existing permittee shall provide a copy of the permit and approved plans to the new owner and/or co-permittee.

**e. Removed Substances**

Solids, sediments, and other pollutants removed in the course of treatment or control of stormwater shall be disposed in accordance with federal and state law and regulations in order to prevent any pollutant in such materials from adversely affecting the environment.

**f. Facilities Construction, Operation and Maintenance**

The permittee and co-permittee(s) are responsible for the design, installation, operation and maintenance of the BMPs identified in the E&S Plan, PCSM Plan, and PPC Plan.

**g. Adverse Impact**

The permittee and co-permittee(s) shall take all reasonable steps to prevent, minimize or cease any discharge in violation of this permit.

**h. Reduction, Loss, or Failure of the BMPs**

Upon reduction, loss, or failure of the BMPs, the permittee and co-permittee shall take immediate action to restore the BMPs or provide an alternative method of treatment. Such restored BMPs or alternative treatment shall be at least as effective as the original BMPs.

**i. Termination of Coverage**

NOT: Upon permanent stabilization of earth disturbance activities associated with construction activity that are authorized by this permit and when BMPs identified in the PCSM Plan have been properly installed, the permittee and/or co-permittee of the facility must submit a NOT form that is signed in accordance with Part B, Section 1.c, Signatory Requirements, of this permit. All letters certifying discharge termination are to be sent to the department or authorized conservation district. The NOT must contain the following information: facility name, address, and location, operator name and address, permit number, identification and proof of acknowledgment from the person(s) who will be responsible for operation and maintenance of the PCSM BMPs in accordance with the approved PCSM Plan, and the reason for permit termination. Until the permittee has received written acknowledgement of the NOT, the permittee will remain responsible for operating and maintaining all E&S BMPs and PCSM BMPs on the project site and will be responsible for violations occurring on the project site.

**j. Completion Certificate and Final Plans**

Within 30 days after the completion of earth disturbance activities authorized by this permit, including the permanent stabilization of the site and proper installation of PCSM BMPs in accordance with the approved PCSM Plan, or upon submission of the NOT if sooner, the permittee shall file with the department or authorized conservation district a statement signed by a licensed professional and by the permittee certifying that work has been performed in accordance with the terms and conditions of this permit and the approved E&S and PCSM Plans.

**2. COMPLIANCE RESPONSIBILITIES**

**a. Duty to Comply**

The permittee and co-permittee must comply with all terms and conditions of this General Permit. Any permit noncompliance constitutes a violation of the Pennsylvania Clean Streams Law and the federal Clean Water Act and is grounds for enforcement action; for permit termination, revocation, reissuance, or modification; or for denial of a permit or permit renewal.

**b. Penalties for Violations of Permit Conditions**

The permittee and co-permittee may be subject to criminal and/or civil penalties for violations of the terms and conditions of this general permit under Sections 602 and 605 of the Clean Streams Law, 35 P.S. Sections 691.602 and 691.605, and under the Clean Water Act as specified in 40 CFR Sections 122.41(a) (2) and (3), which are incorporated by reference.

**c. Need to Halt or Reduce Activity Not a Defense**

The permittee and/or co-permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.

**d. Penalties and Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee or co-permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA (33 U.S.C. §1321) or Section 106 of Comprehensive Environmental Response, Compensation, and Liability Act (Act 42 U.S.C. §9601).

**e. Property Rights**

This permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

**f. Severability**

The provisions of this permit are severable; and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

**g. Other Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee or co-permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

**h. Right of Entry**

Pursuant to Sections 5(b) and 305 of the Pennsylvania Clean Streams Law (35 P.S. §§691.5(b) and 691.305), 25 Pa. Code Chapter 92, and §1917-A of the Administrative Code, the permittee and co-permittee shall allow the head of the department, the EPA Regional Administrator, and/or an authorized representative of EPA, DEP, conservation district or, in the case of a facility which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents, as may be required by law, to:

- (1) Enter upon the permittee's or co-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 terms and conditions of this permit;
- (3) Inspect any facilities or equipment (including monitoring and control equipment); and
- (4) Observe or sample any discharge of stormwater.

**i. Availability of Reports**

Except for data determined to be confidential under Section 607 of the Clean Streams Law (35 P.S. §691.607), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the department or authorized conservation district. As required by the Clean Water Act, the Clean Streams Laws, and 25 Pa. Code, and the department's regulations, permit applications, permits, and other documents related to this permit shall not be considered confidential.

**j. Penalties for Falsification of Reports**

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years or by both. In addition, criminal sanctions are set forth for false swearing and unsworn falsification at 18 Pa. C.S. §§4903-4904.

## PART C

### OTHER CONDITIONS

#### 1. PROHIBITION OF NONSTORMWATER DISCHARGES

All discharges covered by this permit shall be composed entirely of stormwater. Discharges of material other than stormwater must be in compliance with an NPDES permit (other than this permit) issued for the discharge. Discharge of sewage or industrial waste (other than sediment under this permit) to an E&S BMP is not permitted.

The permittee/co-permittee may not discharge floating materials, oil grease, scum, foam, sheen, and substances which: produce odor, taste, or turbidity or settle to form deposits in concentrations or amounts sufficient to be, or create a danger of being, inimical to the water uses to be protected or human, animal, plant or aquatic life.

#### 2. EROSION AND SEDIMENT CONTROL PLANS

- a. An E&S Plan must be prepared, developed, and implemented by qualified personnel trained and experienced in erosion and sediment control, for each activity covered by this permit in accordance with the department's Chapter 102 Rules and Regulations and department guidance. Each E&S Plan must be submitted to the department or authorized conservation district and approved. The BMPs shall be designed to minimize the potential for accelerated erosion and sedimentation in order to protect, maintain, reclaim, and restore water quality and existing and designated uses. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual*, No. 363-2134-008, as amended and updated. The manual is available from the department or authorized conservation district or can be downloaded from the department's Web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us). E&S Plans and BMPs, and revisions thereto, which meet the requirements of 25 Pa. Code Chapters 93, 96, and 102, are conditions of this permit and incorporated by reference.
- b. E&S Control Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law and 25 Pa. Code Chapter 92 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 construction activity at all times.
- c. The staging of earth disturbance activities and maintenance requirements contained in the approved E&S Plan must be followed.
- d. Upon the installation or stabilization of all perimeter sediment control BMPs and at least 3 days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to the department or authorized conservation district.
- e. The E&S Plan must be consistent with the assumptions and requirements of any available Wasteload Allocations (WLAs) for the discharges as set forth in any applicable Total Maximum Daily Loads (TMDLs) established for the receiving waters.

#### 3. RECYCLING AND DISPOSAL OF BUILDING MATERIALS AND WASTES

All building materials and wastes must be removed from the site and recycled or disposed in accordance with the department's Solid Waste Management Regulations at 25 Pa. Code §260.1 *et seq.*, §271.1 *et seq.*, and §287.1 *et seq.* No building material or wastes or unused building materials shall be burned, buried, dumped, or discharged at the site.

#### 4. PREPAREDNESS, PREVENTION AND CONTINGENCY PLANS

If toxic, hazardous, or other polluting materials will be on site, the permittee or co-permittee(s) must develop a PPC Plan for use while those materials are on site. The PPC Plan shall be developed in accordance with department regulations. The PPC Plan shall identify areas which may include, but are not limited to, waste management areas, raw material storage areas, fuel storage areas, temporary and permanent spoils storage areas, maintenance areas, and any other areas that may have the potential to cause noncompliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, etc. BMPs shall be developed and

implemented for each identified area. The PPC Plan shall be maintained on site at all times and shall be made available for review at the department's or authorized conservation districts' request.

## **5. POSTCONSTRUCTION STORMWATER MANAGEMENT PLANS**

- a. A PCSM Plan must be prepared, developed, and implemented for each activity covered by this permit in accordance with the department's 2002 *Comprehensive Stormwater Management Policy*, DEP Policy No. 392-0300-002, and addressed under several regulatory programs administered by the department. These regulatory programs utilize narrative based effluent limitations in the form of BMPs to achieve the regulatory standard to protect, maintain, and improve the commonwealth's water resources through comprehensive site planning and BMP design guidance. Various BMPs and their design standards are listed in the *Pennsylvania Stormwater Best Management Practices Manual*, No. 363-0300-002, as amended and updated. The manual is available from the department or authorized conservation district or can be downloaded from the department's Web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us). Each PCSM Plan must be submitted to the department or authorized conservation district. The PCSM plan must employ stormwater management BMPs to control the volume, rate, and water quality of the postconstruction stormwater runoff so as to protect and maintain the chemical, physical, biological properties and existing/designated uses of the waters of this commonwealth.
- b. PCSM Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law and 25 Pa. Code Chapter 92 of the department's regulations. The owner or operator of a facility with stormwater discharges covered by this permit shall make PCSM Plans available to the public upon request. The PCSM Plans must be made available at the site of the construction activity at all times.
- c. Permittees and co-permittees are responsible for ensuring that a licensed professional have oversight responsibilities for the design and proper installation of BMPs identified in the PCSM Plan prior to the submission of the NOT for this permit. The licensed professional shall certify that the BMPs identified in the plan have been installed in accordance with the approved plan. The installation schedule of PCSM BMPs and maintenance requirements contained within the approved PCSM Plan must be followed; and failure to comply with the installation schedule is a violation of this permit, the Clean Streams Law, and the Clean Water Act.
- d. The stormwater management program must be consistent with the assumptions and requirements of any available Wasteload Allocations (WLAs) for the discharges as set forth in any applicable Total Maximum Daily Loads (TMDLs) established for the receiving waters.

## **6. PRECONSTRUCTION CONFERENCES**

The permittee or co-permittee shall contact the department or authorized conservation district at least seven days before construction is to begin to determine if a preconstruction conference is required. The permittee, co-permittee, and others undertaking the earth disturbance activity must attend a preconstruction conference when requested by the department or authorized conservation district. The permittee or co-permittee must bring a copy of their NPDES permit, a copy of the stamped plan from the conservation district, and all associated department approvals/permits which must be available at the conference upon request.

## **7. SPOIL OR BORROW AREA**

An E&S Plan shall be submitted to the department or authorized conservation district and implemented for all spoil and borrow areas, regardless of their location.

### **Clean Fill Requirements**

Any person placing clean fill that has been affected by a spill or release of a regulated substance must use department Form FP-001 to certify the origin of the fill material and the results of the analytical testing to qualify the materials as clean fill. The form must be retained by the owner of the property receiving the fill. Fill material not qualifying as clean fill is regulated fill and must be managed in accordance with the department's municipal or residual waste regulations based on 25 Pennsylvania Code Chapters 287 or 271, whichever is applicable.

## **8. PHASED PROJECTS**

Prior to the commencement of earth disturbance activities for subsequent phases of the project, the permittee or co-permittee shall submit an E&S Plan and PCSM Plan and supporting information for each additional phase or portion of the project to the department or authorized conservation district for approval. Coverage under this permit is only granted for those phases or portions of a project for which an E&S Plan and PCSM Plan has been

submitted and approved by the department or authorized conservation district. Subsequent phases commenced after termination of this PAG-02, 2009 Amendment, shall be responsible for complying with the final renewed, reissued, or amended general permit.

#### **9. CLARIFICATION ASSISTANCE**

The permittee or co-permittee shall contact the department or authorized conservation district for clarification of any requirements contained in the E&S Plan, PCSM Plan, PPC Plan, or other documents related to this permit.

#### **10. WETLAND PROTECTION**

If hydric soils or other wetland features are present, a wetland determination must be conducted in accordance with department procedures. All wetlands identified must be included on the E&S Plan and PCSM Plan. Special precautions must be taken to protect wetlands and other water resources identified in the NOI, plans, and other supporting documents.

#### **11. INFILTRATION BMPs**

Where infiltration BMPs are being utilized, the permittee and co-permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration BMPs are compromised, additional soil testing must be performed to verify that the BMP will perform as planned.

#### **12. STABILIZATION**

Upon completion or temporary cessation of the earth disturbance activity the project site shall be immediately stabilized in accordance with the recommendations contained in the Erosion and Sediment Pollution Control Program Manual (E&S Manual), Commonwealth of Pennsylvania, Department of Environmental Protection No. 363-2134-008, April 2000, as amended and updated. Erosion and sediment control BMPs shall be implemented and maintained until permanent stabilization is completed and PCSM BMPs are operational.

#### **13. SEWAGE FACILITIES**

Earth disturbance may not commence until all related Act 537 Sewage Facilities Planning approvals have been obtained.