



April 21, 2023

VIA ELECTRONIC TRANSMITTAL

Westtown School
Attn: Kate Donnelly
975 Westtown Road
West Chester, PA 19382

Re: Chapter 102 PAG-02 NPDES General Permit Coverage Approval
NPDES Permit No.: PAC150337
Project Name: Westtown School - Oak Lane
Municipality: Westtown Township, Chester County

E&SC Original Date of Plan Drawing: 01/27/2023
E&SC Last Revised Date of Plan Drawing: 03/17/2023
PCSM Original Date of Plan Drawing: 01/27/2023
PCSM Last Revised Date of Plan Drawing: 03/17/2023

Dear Ms. Donnelly:

Under the authority of the federal Clean Water Act and Pennsylvania's Clean Streams Law, the Chester County Conservation District has approved your request for coverage under the PAG-02 NPDES General Permit for Stormwater Discharges Associated with Construction Activities ("PAG-02 General Permit"). The latest versions of the Notice of Intent (NOI) and all supporting documents, including the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval.

Your coverage under the PAG-02 General Permit which has been assigned NPDES Permit No. PAC150337, is effective on 04/21/2023 and will expire on 12/07/2024. If stormwater discharges associated with construction activities are expected to continue beyond the expiration date of PAG-02 General Permit coverage, you must apply to renew your coverage at least 180 days prior to the expiration date, unless otherwise approved by the Department of Environmental Protection (DEP) or the District.

Please review the PAG-02 General Permit and the enclosed attachments carefully and contact this office if you have any questions. Please pay particular attention to the following requirements of the General Permit:

- In accordance with 25 Pa. Code §102.5(h), operators who are not the permittee shall be co-permittees. An operator is a person who either has oversight responsibility of an earth disturbance activity on a project site who has the ability to make modifications to the E&S Plan, PCSM Plan or site specifications, or has day to day operational control over an earth disturbance activity on a project site. Please be advised that once an



operator (contractor) has been selected for the project, the operator must be made a co-permittee and enter into an agreement with the permittee. Please use the enclosed Co-Permittee Acknowledgement Form for Chapter 102 Permits (3800-FM-BCW0271a) to add a co-permittee.

- A pre-construction meeting is required as specified in 25 Pa. Code §102.5(e), unless otherwise notified in writing by this office. The purpose of this meeting is to review all aspects of the permit with the permittee, co-permittees, operators, consultants, inspectors and licensed professionals or their designees who will be responsible for the implementation of the critical stages of the approved PCSM Plan. You must provide at least seven days' notice of the pre-construction meeting to all invited attendees.
- You must conduct inspections of all best management practices (BMPs) on a weekly basis and after each measurable stormwater event (i.e., precipitation in an amount of 0.25 inch or greater over a 24-hour period) to ensure effective and efficient operation. The Visual Site Inspection Report Form (3800-FM-BCW071d) is enclosed along with instructions. This form (or an equivalent electronic form providing the same information) must be used to document these required site inspections.
- For any property containing a PCSM BMP, the permittee or co-permittee must record an instrument with the recorder of deeds which will assure disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM BMP, provide for necessary access related to long-term operation and maintenance (O&M) for PCSM BMPs, and provide notice that the responsibility for long-term O&M of the PCSM BMP is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees. **You must record an instrument with the Recorder of Deeds within 45 days and provide proof of the recording at the time an application to transfer permit coverage is submitted, if applicable, and at the time a Notice of Termination (NOT) is submitted to this office.**
- If there are any changes to the PCSM BMPs or long-term operation and maintenance plan after the initial instrument recording and prior to permit termination, the permittee(s) will need to amend the initial recorded instrument at the recorder of deeds office prior to permit termination. Please note, most Recorder of Deeds offices require that the land owner (at the time of actual recording) signs the instrument to be recorded. If the land owner changes and an amended instrument needs to be recorded, the Recorder of Deeds office will likely require the new land owner's signature on the amended instrument. It is recommended that for any sale or transfer of property to a new owner before this permit is terminated that the permittee seek legal counsel on how to structure the sale or transfer to allow the recorded instrument to be amended.
- The Notice of Termination (NOT) Form (3800-PM-BCW0229b) is also enclosed and must be completed and filed when construction activities have ceased and final stabilization has been achieved. The NOT must identify the responsible person(s) for the long-term O&M of the PCSM BMPs. Please be advised that the permittee and any co-permittees remain responsible for all operational maintenance for this project site until the NOT has been filed and acknowledged. **It is important that you fulfill your obligations under the General Permit and submit a complete NOT to this office upon final stabilization of the site.**

Persons aggrieved by an action of a conservation district under 25 Pa. Code Chapter 102 may request an informal hearing with DEP within 30 days of publication of this notice in the *Pennsylvania Bulletin*, pursuant to 25 Pa. Code §102.32(c). DEP will schedule this informal hearing within 30 days of the request. After this informal hearing, any final determination by DEP may be appealed to the Environmental Hearing Board as provided below.



Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board), pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. §7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street, P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the PA Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

If you have any questions about your application, please contact the Chester County Conservation District at 610-455-1360.

Sincerely,



Christian E. Strohmaier
Chester County Conservation District
Managing Director

cc: EKA Group, Inc.
DEP Permits Section Chief
Westtown Township

Attachments: PAG02 General NPDES Permit
[Visual Site Inspection Report Form and Instructions](#) (link)
[Co-Permittee Acknowledgement Form for Chapter 102 Permits and Instructions](#) (link)
[Notice of Termination Form](#) (link)





**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO: PAC150337

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251 – 1387 and Pennsylvania’s Clean Streams Law, as amended, 35 P.S. §§ 691.1 – 691.1001, the Department of Environmental Protection (DEP) authorizes the permittee named below to discharge stormwater associated with construction activities from an earth disturbance activity that involves earth disturbance greater than or equal to one acre, or an earth disturbance on any portion, part, or during any stage of a larger common plan of development or sale that involves earth disturbance greater than or equal to one acre:

<u>Permittee</u>	<u>Project Site</u>
<u>Westtown School</u>	<u>Westtown School – Oak Lane</u>
<u>975 Westtown Road</u>	<u>975 Westtown Road</u>
<u>West Chester, PA 19382</u>	<u>West Chester, PA 19382</u>

This authorization is subject to DEP’s enclosed PAG-02 General Permit (General Permit) which incorporates all effluent limitations, monitoring and reporting requirements, and other terms, conditions, criteria, and special requirements for the discharge of stormwater associated with construction activities to surface waters, including through storm sewers. Authorization to discharge is subject to the implementation of the plans and additional associated information submitted as part of the Notice of Intent (NOI) for general permit coverage.

APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN IS AUTHORIZED BEGINNING ON 04/21/2023, AND WILL EXPIRE ON 12/07/2024 WHEN CONDUCTED PURSUANT TO THE TERMS AND CONDITIONS OF THIS GENERAL PERMIT. GENERAL PERMIT COVERAGE MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON RECEIPT AND ACKNOWLEDGEMENT OF A NOTICE OF TERMINATION FORM AND APPROVAL BY DEP OR THE AUTHORIZED CONSERVATION DISTRICT. NO CONDITION OF THIS GENERAL PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE(S) FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER STATE OR FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS, OR LOCAL ORDINANCES.

Coverage under the PAG-02 General Permit is authorized by:

Christian E. Strohmaier
Managing Director
Chester County Conservation District
688 Unionville Road, Suite 200
Kennett Square, PA 19348
610.925.4920

Table of Contents

<u>Subject</u>	<u>Page</u>
I. DEFINITIONS	3
II. AUTHORITY OF DEP AND CCD	7
III. NOTICE OF INTENT SUBMITTAL	7
IV. NOTICE OF TERMINATION	9
PART A EFFLUENT LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS	11
I. EFFLUENT LIMITATIONS	11
II. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS.....	11
III. RECORD KEEPING	12
IV. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE GENERAL PERMIT	12
PART B STANDARD CONDITIONS	13
I. MANAGEMENT REQUIREMENTS.....	13
II. COMPLIANCE RESPONSIBILITIES.....	15
PART C OTHER CONDITIONS	17
I. PROHIBITION OF NON-STORMWATER DISCHARGES	17
II. EROSION AND SEDIMENT CONTROL PLANS	17
III. RECYCLING AND DISPOSAL OF BUILDING MATERIALS AND WASTES	17
IV. PREPAREDNESS, PREVENTION, AND CONTINGENCY PLANS	17
V. POST-CONSTRUCTION STORMWATER MANAGEMENT PLANS	18
VI. PRE-CONSTRUCTION MEETING	18
VII. SPOIL OR BORROW AREAS.....	19
VIII. PHASED PROJECTS.....	19
IX. WETLAND PROTECTION	19
X. INFILTRATION BMPs	19
XI. STABILIZATION	19
XII. SEWAGE FACILITIES.....	19
XIII. LONG-TERM OPERATION AND MAINTENANCE OF PCSM BMPs	19
XIV. VOLUNTARY RIPARIAN FOREST BUFFERS	20
XV. IMPLEMENTATION OF GENERAL PERMIT REQUIREMENTS	20
XVI. THREATENED AND ENDANGERED SPECIES PROTECTION	21

PAG-02
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES

This General Permit applies to earth disturbance activities that disturb greater than or equal to one (1) acre, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves greater than or equal to one acre of earth disturbance.

This General Permit does not apply to earth disturbance activities involving agricultural plowing and tilling, animal heavy use areas, timber harvesting activities, or 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 (ESCGP).

I. DEFINITIONS

Note: Terms used in this General Permit not otherwise defined herein shall have the meaning attributed to them in 40 CFR Part 122 and 25 Pa. Code Chapters 92a, 93, 96, 102 or 105.

Administrator means the Environmental Protection Agency (EPA) regional administrator.

Antidegradation Best Available Combination of Technologies (ABACT) means environmentally sound and cost effective treatment, land disposal, pollution prevention and stormwater re-use BMPs that individually or collectively manage the difference in the net change in stormwater volume, rate, and quality for storm events up to and including the 2 year/24 hour storm when compared to the stormwater rate, volume, and quality prior to the earth disturbance activities to maintain and protect the existing quality of the receiving surface waters of this Commonwealth. (25 Pa. Code § 102.1)

Accelerated Erosion means 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. (25 Pa. Code § 102.1)

Approximate original condition means the pre-construction condition, general surface configuration, and drainage pattern of the land prior to earth disturbance. Restoration from forest to meadow is considered approximate original condition under this General Permit.

Best Management Practices (BMPs) means activities, facilities, measures, planning, or procedures used to minimize accelerated erosion and sedimentation and manage stormwater to protect, maintain, reclaim, and restore the quality of waters and the existing and designated uses of waters of this Commonwealth before, during, and after earth disturbance activities. (25 Pa. Code § 102.1)

Clean fill means uncontaminated, non-water soluble, non-decomposable inert solid material. The term does not include materials placed in or on waters of the Commonwealth unless otherwise authorized. (25 Pa. Code § 271.1)

Clean Streams Law means the Act of June 22, 1937, P.L. 1987, No. 394, as amended. (35 P.S. §§ 691.1—691.1001)

Clean Water Act means the Federal Water Pollution Control Act, as amended. (33 U.S.C.A. §§ 1251—1387)

Combined Sewer Overflow (CSO) means an intermittent overflow or other untreated discharge from a municipal combined sewer system (including domestic, industrial, and commercial wastewater and stormwater) prior to reaching the headworks of the sewage treatment facility which results from a flow in excess of the dry-weather carrying capacity of the system. (25 Pa. Code § 92a.2)

Co-Permittee means person(s) identified in this General 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 terms and conditions of this General Permit and applicable laws.

County Conservation District (CCD) means a conservation district, as defined in section 3(c) of the Conservation District Law (3 P.S. § 851(c)), which has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the erosion, sediment, and stormwater management program in this Commonwealth. (25 Pa. Code § 102.1)

Critical Stages means the installation of underground treatment BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by DEP or a CCD.

DEP means the Department of Environmental Protection of this Commonwealth.

Designated uses means those uses specified in 25 Pa. Code §§ 93.4(a) and 93.9a—93.9z for each water body or segment, whether or not they are being attained, to be achieved as part of Pennsylvania's water quality standards. (25 Pa. Code § 93.1)

Disturbed area means unstabilized land area where an earth disturbance activity is occurring or has occurred. (25 Pa. Code § 102.1)

Earth Disturbance Activity means a construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. (25 Pa. Code § 102.1)

Effluent Limitation or Standard means a restriction established by DEP or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters including BMPs and schedules of compliance.

EPA means the United States Environmental Protection Agency.

Erosion means the natural process by which the surface of the land is worn away by water, wind, or chemical action. (25 Pa. Code § 102.1)

Erosion and Sediment Control Plan (E&S Plan) – A site-specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during, and after earth disturbance activities. (25 Pa. Code § 102.1)

Exceptional Value Waters means surface waters of high quality which satisfy 25 Pa. Code § 93.4b(b) (relating to antidegradation). (25 Pa. Code § 93.1)

Existing uses means those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in Pennsylvania's water quality standards. (25 Pa. Code § 93.1)

Impaired Waters means surface waters that fail to attain one or more of its designated uses under 25 Pa. Code Chapter 93.

Integrated Water Quality Monitoring and Assessment Report (Integrated Report) means DEP's report on the conditions of Pennsylvania's surface waters to satisfy sections 305(b) and 303(d) of the Clean Water Act when approved by EPA.

High Quality Waters means surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying 25 Pa. Code § 93.4b(a). (25 Pa. Code § 93.1)

Licensed Professional means professional engineers, landscape architects, geologists, and land surveyors licensed to practice in the Commonwealth. (25 Pa. Code § 102.1)

Long-Term Operation and Maintenance (O&M) means the routine inspection, maintenance, repair, or replacement of a BMP to ensure proper function for the duration of time that the BMP is needed. (25 Pa. Code § 102.1)

Municipal Separate Storm Sewer System (MS4) means all separate storm sewers that are defined as “large” or “medium” or “small” municipal separate storm sewer systems pursuant to 40 CFR §§ 122.26(b)(4), (b)(7), and (b)(16), respectively, or designated under 40 CFR § 122.26(a)(1)(v). (25 Pa. Code § 92a.32(a) and 40 CFR § 122.26(b)(18))

Municipality means a county, city, borough, town, township, school district, institution, or authority, or another public body created by or pursuant to State Law. For the purposes of this definition, town includes an incorporated town. (25 Pa. Code § 102.1)

Notice of Intent (NOI) means a request, on a form provided by DEP, for coverage under a General NPDES Permit for Discharges of Stormwater Associated with Construction Activities. (25 Pa. Code § 102.1)

Notice of Termination (NOT) – A request, on a form provided by DEP, to terminate coverage under a General NPDES Permit for Discharges of Stormwater Associated with Construction Activities. (25 Pa. Code § 102.1)

Non-discharge alternative – Environmentally sound and cost effective BMPs that individually or collectively eliminate the net change in stormwater volume, rate, and quality for stormwater events up to and including the 2-year/24-hour storm when compared to the stormwater rate, volume, and quality prior to the earth disturbance activities to maintain and protect the existing quality of the receiving surface waters of this Commonwealth. (25 Pa. Code § 102.1)

Operator means 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 or PCSM Plan. (25 Pa. Code § 102.1)

Owner means a person(s) who holds the 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.

Permittee means a person who has coverage under this General Permit. The term permittee is also used to describe operators who are co-permittees, to the extent that co-permittees are jointly and severally liable for non-compliance with this General Permit.

Permanent Stabilization means long-term protection of soil and water resources from accelerated erosion. (25 Pa. Code § 102.1)

Person – Any operator, individual, public or private corporation, partnership, association, municipality or political subdivision of this Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; Department, agency or instrumentality of state, federal, or local government, or an agent or employee thereof; or any other legal entity. 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 means any discernable, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, Concentrated Aquatic Animal Production Facility (CAAP), Concentrated Animal Feeding Operation (CAFO), landfill leachate collection system, or vessel, or other floating craft, from which pollutants are or may be discharged. (25 Pa. Code § 92a.2)

Post-Construction Stormwater means stormwater associated with a project site after the earth disturbance activity has been completed and the project site is permanently stabilized.

Post-Construction Stormwater Management Plan (PCSM Plan) means a site-specific plan consisting of both drawings and a narrative that identifies 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. (25 Pa. Code § 102.1)

Preparedness, Prevention, and Contingency Plan (PPC Plan) means 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, and that is developed and implemented at the construction

site to control potential discharges of pollutants other than sediment into waters of this Commonwealth. (25 Pa. Code § 102.1)

Project site means the entire area of activity, development, lease, or sale including: (i) the area of the earth disturbance activity; (ii) the area planned for the earth disturbance activity; and (iii) Other areas which are not subject to earth disturbance activity. (25 Pa. Code § 102.1)

Regulated fill means soil, rock, stone, dredged material, used asphalt, historic fill, and brick, block or concrete from construction and demolition activities that is separate from other waste and recognizable as such that has been affected by a spill or release of a regulated substance and the concentrations of regulated substances exceed the values in Tables FP-1a and b of DEP's Management of Fill Policy (DEP ID No. 258-2182-773).

Riparian buffer means a BMP that is an area of permanent vegetation along surface waters. (25 Pa. Code § 102.1)

Riparian forest buffer means a type of riparian buffer that consists of permanent vegetation that is predominantly native trees, shrubs, and forbs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and separate land use activities from surface waters. (25 Pa. Code § 102.1)

Snowmelt means the conversion of snow into overland stormwater and ground water flow as a result of warmer temperatures.

Stabilization means the proper placing, grading, constructing, reinforcing, lining, and covering of soil, rock, or earth to ensure their resistance to erosion, sliding, or other movement. (25 Pa. Code § 102.1)

Stormwater means runoff from precipitation, snowmelt, surface runoff, and drainage. (25 Pa. Code § 102.1)

Surface Waters means 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. (25 Pa. Code § 102.1)

Total Maximum Daily Load (TMDL) means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources and natural quality, and a margin of safety expressed in terms of mass per time, toxicity, or other appropriate measures. (25 Pa. Code § 96.1)

Toxic Pollutant (Toxics) means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains may, on the basis of information available to DEP cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring. (25 Pa. Code § 92a.2)

Transferee – Person(s) 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 terms and conditions of this General Permit and all applicable laws for discharges of stormwater during the construction activity.

Urbanized area (UA) means land area comprising one or more places (central place(s)) and the adjacent densely settled surrounding area (urban fringe) that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile, as defined by the United States Bureau of the Census and as determined by the latest available decennial census. The UA outlines the extent of automatically regulated areas.

Wasteload Allocation (WLA) means the portion of a surface water's loading capacity that is allocated to existing and future point source discharges. (25 Pa. Code § 96.1)

Waters of this Commonwealth means 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. (25 Pa. Code § 102.1)

Wetlands means 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. (25 Pa. Code § 105.1)

II. AUTHORITY OF DEP AND CCD

- A. DEP or CCD may notify the permittee at any time that the General Permit terms and conditions are not being met. Upon plan review or site inspection, DEP or CCD may require E&S Plan revisions or other appropriate action to ensure compliance with the terms and conditions of this General Permit.
- B. DEP or CCD has the right to enter onto the site to conduct inspections, conduct monitoring, or require monitoring where deemed necessary. The permittee shall commence such monitoring upon notification from DEP or CCD in the manner directed by DEP or CCD.
- C. DEP or CCD may request copies of records required by this General Permit, which could include the records required under Part A Section III of this General Permit.
- D. DEP may require by written notice any person authorized by this General 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.
 3. A statement setting a 90-day deadline for the owner or operator to file an application.

III. NOTICE OF INTENT SUBMITTAL

- A. General Information and Requirements
 1. Persons proposing to discharge stormwater associated with construction activities and eligible persons proposing to expand the scope previously authorized discharges of stormwater associated with construction activities, who wish to be covered by this General Permit, must submit an administratively complete and acceptable Notice of Intent (NOI) to DEP or CCD and receive authorization from DEP or CCD prior to commencing the construction activity. The NOI shall be filed in accordance with the detailed instructions specified in the NOI instructions.
 2. Operators of all construction activities subject to this General Permit shall develop, implement, and maintain erosion and sediment (E&S) and post-construction stormwater management (PCSM) best management practices (BMPs) and other pollution prevention measures required by this General Permit to minimize accelerated erosion and sedimentation before, during, and after construction activities.
 3. E&S BMPs shall be designed and implemented to meet the standards and specifications identified in DEP's regulations, including 25 Pa. Code §§ 102.4 (relating to erosion and sediment control requirements) and 102.11(a)(1) (relating to general requirements), and listed in DEP's *Erosion and Sediment Pollution Control Program Manual* (DEP ID No. 363-2134-008), as amended and updated, or an alternative that is at least as effective or better, when authorized by DEP.
 4. PCSM BMPs shall be designed and implemented to meet the standards and specifications identified in DEP's regulations, including 25 Pa. Code §§ 102.8 (relating to PCSM requirements) and 102.11(a)(2), and listed in DEP's *Pennsylvania Stormwater Best Management Practices Manual* (DEP ID No. 363-0300-002), as amended and updated, or an alternative that is as at least as effective or better, when authorized by DEP.
 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 waters are protected and maintained.

6. The permittee or co-permittee(s) shall maintain the E&S Plan, PCSM Plan, PPC Plan, and other documents required by this General Permit at the project site and available for review by DEP or CCD or other authorized local, state, or federal agent or representative.
- B. The following activities are not eligible for coverage under this General Permit:
1. Discharges to waters, including wetlands, with a designated or existing use of High Quality Waters (HQ) or Exceptional Value Waters (EV) pursuant to 25 Pa. Code Chapter 93 (relating to water quality standards). (25 Pa. Code § 92a.54(e)(9))
 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. (25 Pa. Code § 92a.54(a)(5))
 3. Discharges which individually or cumulatively have the potential to cause significant adverse environmental impact. (25 Pa. Code § 92a.54(e)(1))
 4. Discharges to waters for which NPDES general permit coverage is prohibited under 25 Pa. Code Chapter 92a (relating to NPDES permitting, monitoring and compliance).
 5. Discharges which are not, or will not be, in compliance with any of the terms or conditions of this General Permit. (25 Pa. Code § 92a.54(e)(2))
 6. Discharges for which the responsible party (person) 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 DEP or CCD. (25 Pa. Code § 92a.54(e)(3))
 7. Discharges subject to categorical point source effluent limitations promulgated by the United States Environmental Protection Agency (EPA) for categories other than construction or post-construction. (25 Pa. Code § 92a.54(e)(5))
 8. Discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards. (25 Pa. Code § 92a.54(e)(6))
 9. Discharges from construction activities for which DEP requires an Individual NPDES Permit to ensure compliance with the federal Clean Water Act, Pennsylvania's 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. (25 Pa. Code § 92a.54(e)(8))
 10. Discharges associated with coal mining or noncoal mining activities pursuant to DEP'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. (25 Pa. Code § 92a.12(c))
 12. Discharges from a site where other point source(s) require the issuance of an Individual NPDES Permit. (25 Pa. Code § 92a.54(e)(7))
 13. Discharges to surface waters identified as waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Water Quality Monitoring and Assessment Report (Integrated Report) most recently approved by EPA unless the discharges will be managed with a non-discharge alternative or ABACT BMPs.
 14. Discharges to surface waters that are covered by an EPA-approved or EPA-established Total Maximum Daily Load (TMDL), including discharges to waters tributary to the Chesapeake Bay, in which the pollutant(s) of concern include siltation, suspended solids, or nutrients, unless the discharges will be

managed with a non-discharge alternative or ABACT BMPs. In addition, if a specific wasteload allocation (WLA) has been established that would apply to the discharge, the permittee shall implement necessary steps to meet that allocation.

15. Discharges to municipal separate storm sewer systems (MS4s) and combined sewer overflow (CSO) municipal systems without the written consent of the MS4 or CSO permit holder unless those discharges result in no net change (pre-condition to post-condition) in volume or rate or water quality.
 16. Discharges of (a) wastewater from washout of concrete, unless managed by an appropriate control; (b) wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials; (c) fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and (d) soaps or solvents used in vehicle and equipment washing.
- C. If a payment (e.g., check, electronic transfer) of either an administrative filing fee or a disturbed acreage fee has been processed as part of an administratively complete application and is subsequently returned for insufficient funds, the NOI will be suspended until sufficient funds are provided. If earth disturbance activity authorized by the General Permit occurs and DEP or CCD is subsequently notified that the fee(s) were not paid, earth disturbance activities at the site will be immediately suspended and the site must be immediately stabilized until the fees are paid in full. If the fees are not paid in full within 30 days of notification of unpaid fees, the General Permit authorization will be revoked.
- D. No condition of this General Permit shall release any person from any responsibility or requirements under relevant federal or Pennsylvania environmental statutes or regulations, or under relevant local ordinances.
- E. The approval of coverage is granted based, in part, on information provided by the applicant in the NOI. The information provided by the applicant, including all appendices, attachments, plans, and supporting documentation, are incorporated by reference as a part of the approval and are enforceable as a condition of the approval. If there is any conflict between the General Permit and the NOI, including any appendices, attachments, plans, and other supporting documentation, the more environmentally protective provision applies.

IV. NOTICE OF TERMINATION

A. Termination of Coverage

1. Upon permanent stabilization of earth disturbance activity under 25 Pa. Code § 102.22(a)(2) (relating to permanent stabilization) and installation of BMPs in accordance with the approved plans prepared and implemented in accordance with 25 Pa. Code §§ 102.4 and 102.8, the permittee and/or co-permittee(s) shall submit an NOT to DEP or CCD. The NOT must include:
 - a. The facility name, address, and location.
 - b. The operator name and address.
 - c. The permit number.
 - d. The reason for the permit termination.
 - e. Identification of the persons who have agreed to and will be responsible for the long-term O&M of PCSM BMP(s).
2. Until the permittee or co-permittee has received written approval of the NOT, the permittee or co-permittee will remain responsible for compliance with the General Permit terms and conditions, including long-term O&M of all PCSM BMPs on the project site in accordance with 25 Pa. Code § 102.8(m) (relating to PCSM long-term operation and maintenance requirements). DEP or CCD will conduct a follow-up inspection and approve or deny the NOT within 30 days of its receipt in accordance with 25 Pa. Code § 102.7(c) (relating to permit termination).


B. Final Certification

1. The permittee shall enclose with the NOT "Record Drawings" a final certification statement from a licensed professional, which reads as follows:

"I (name) do hereby certify pursuant to the penalties of 18 Pa.C.S. § 4904 to the best of my knowledge, information, and belief, that the accompanying record drawings accurately reflect the as built conditions, are true and correct, and are in conformance with Chapter 102 of the rules and regulations of the Department of Environmental Protection and that the project site was constructed in accordance with the approved PCSM Plan, all approved plan changes, and accepted construction practices."

2. The permittee shall retain a copy of the record drawings as part of the approved PCSM Plan and shall provide a copy of the record drawings to the persons identified as responsible for the long-term O&M of PCSM BMPs. Permittees shall also provide copies of both the record drawings and the long-term O&M plan to DEP or CCD and the municipality(ies) where the project site is located.

General Permit (PAG-02) Issued

By 
Acting Director
Bureau of Clean Water

Effective: December 8, 2019

Expires: December 7, 2024

PART A

EFFLUENT LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS

I. EFFLUENT LIMITATIONS

A. BMPs.

Except as required by 25 Pa. Code § 102.11(c), this General 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 volume, rate, and quality of stormwater runoff discharged into surface waters, and which replicate pre-construction infiltration and runoff conditions to the maximum extent practicable. Section 102.11(c) incorporates by reference federal Effluent Limitation Guidelines in 40 CFR Part 450 (relating to the construction and development point source category).

B. Water Quality-Based Effluent Limitations.

1. Persons proposing or conducting earth disturbance activities shall develop, implement and maintain E&S and PCSM BMPs to minimize the potential for accelerated erosion and sedimentation and to manage post-construction stormwater to ensure that the water quality standards of all affected waters are attained.
2. Earth disturbance activities authorized under this General Permit shall achieve WLAs established in any applicable TMDL. All stormwater discharges must comply with all applicable requirements established in accordance with DEP's regulations at 25 Pa. Code Chapters 91-96, 102, and 105.
3. For all permittees covered under this General Permit, DEP or CCD may, upon written notice, require additional BMPs or other control measures to ensure that the water quality standards of the receiving waters are attained.

C. The permittee may not discharge:

1. Floating solids, scum, sheen or substances that result in observed deposits in the receiving water, and foam or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water. (25 Pa. Code § 92a.41(c))
2. Substances in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life. (25 Pa. Code § 93.6(a))

II. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

A. Site Inspections – The permittee shall conduct visual site inspections throughout the duration of construction and until the NOT has been submitted by the permittee, at the following frequencies:

- Routine Inspections shall be conducted weekly.
 - Post-Storm Event Inspections shall be conducted within 24 hours after the conclusion of each measurable storm event (i.e., precipitation in an amount of 0.25 inch or greater over a 24-hour period) or the occurrence of snowmelt sufficient to cause a discharge.
 - Corrective Action Inspections shall be conducted anytime the permittee observes a deficiency in implementation of the E&S and PCSM Plans.
1. The permittee shall document each site inspection on DEP's Chapter 102 Visual Site Inspection Report (3800-FM-BCW0271d) or alternative document or electronic form that collects and retains identical information. All requested information on the Visual Site Inspection Report must be completed. If electronic forms are used to document site inspections, the permittee shall provide a physical copy of the inspection report to DEP or CCD upon request. The permittee shall submit visual site inspection reports to DEP or CCD upon request.
 2. Site inspections shall be performed by personnel that are trained and experienced in E&S and PCSM BMP construction, function, and maintenance and are familiar with the E&S and PCSM Plans for the project site.

3. To determine if a storm event of 0.25 inch or greater has occurred on a project site, the permittee shall either maintain a rain gauge on-site or obtain storm event information from a weather station that is representative of the project site location.

B. Licensed Professional Oversight of Critical Stages (25 Pa. Code § 102.8(k))

A licensed professional or a designee shall be present on-site and shall be responsible for oversight of critical stages of implementation of the approved PCSM Plan. The critical stages may include the installation of underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by DEP or CCD.

C. Non-Compliance or Potential Pollution Reporting

Where E&S, PCSM or PPC BMPs are found to be inoperative or ineffective during an inspection or any other time the permittee becomes aware of any incident causing or threatening pollution as described in 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution), as required by 25 Pa. Code § 92a.41(b) (relating to conditions applicable to all permits), the permittee and/or co-permittee(s) shall, as soon as possible but no later than four (4) hours after becoming aware of the incident, contact DEP or CCD, by phone or personal contact, followed by the submission of a written report within five (5) days of the initial contact, which may be waived by DEP or CCD. Non-compliance 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 non-compliance, 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 non-compliance; and
4. The date or schedule of dates, and identifying remedies for correcting non-compliance conditions.

D. Monitoring.

DEP or CCD 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 § 92a.61 (relating to monitoring). The permittee or co-permittee shall commence such monitoring upon notification from DEP or CCD. (25 Pa. Code § 92a.61(b))

III. RECORD KEEPING

The permittee and co-permittee(s) shall retain records of all monitoring information including copies of all monitoring and inspection reports required by this General Permit, all monitoring information (including site log book, calibration and maintenance records) and records of data used to complete the NOI for this General Permit for a period of three years from the date General Permit coverage is terminated, as required by 25 Pa. Code § 92a.61(f)(2). This period of retention must be extended during the course of any unresolved compliance, enforcement, or litigation or when requested by DEP or CCD. (25 Pa. Code § 92a.3(c) and 122.41(j)(2))

IV. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE GENERAL PERMIT

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

PART B
STANDARD CONDITIONS

I. MANAGEMENT REQUIREMENTS

A. Permit Modification, Termination, or Revocation and Reissuance

The General Permit will expire five (5) years from the date of its issuance. DEP will publish a notice of the draft, renewed, or reissued General Permit or of any amendments to this General Permit, in the *Pennsylvania Bulletin*, and, after a comment period, DEP will publish notice of the final, renewed, reissued or amended General Permit in the *Pennsylvania Bulletin*. Any person wishing to be covered by such a final, renewed, reissued or amended General Permit must submit an NOI for General Permit coverage or, for existing discharges with General Permit coverage, an affirmative acknowledgement of the new General Permit's terms and conditions, as applicable. See 40 CFR § 122.28(b)(2)(i). A person may alternatively request coverage under an Individual NPDES Permit. See 40 CFR § 122.28(b)(2)(vi); 25 Pa. Code § 92a.54(c) and (d) (relating to general permits). If the permittee is unable to comply with the renewed, reissued, or amended General Permit, the permittee must submit an application for an Individual NPDES Permit within 90 days of publication of this General Permit.

1. Coverage under this General Permit may be modified, suspended, revoked, reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapters 92a (relating to NPDES permitting, monitoring and compliance) and 102 (relating to erosion and sediment control), or to require compliance with updated effluent limitation guidelines, water quality standards, impaired water listings, or newly approved TMDLs.
2. DEP may modify, revoke, suspend, or terminate previously issued coverage under this General Permit and require the stormwater discharger to apply for and obtain an Individual NPDES Permit in accordance with 25 Pa. Code Chapters 92a and 102.
3. The filing of a request by the permittee or co-permittee(s) for a General Permit or coverage modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated non-compliance, does not eliminate any existing General Permit conditions.
4. General Permit coverage modification or revocation will be conducted according to 25 Pa. Code Chapters 92a and 102.

B. Duty to Provide Information

1. The permittee or co-permittee(s) shall furnish to DEP or CCD within thirty (30) days or such other timeframe as instructed by DEP or CCD, any information that DEP or CCD may request to determine whether cause exists for modifying, revoking, reissuing, or terminating coverage approved under this General Permit or to determine compliance with this General Permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(h))
2. The permittee or co-permittee(s) shall furnish, upon request, to DEP or CCD or EPA, copies of records required to be kept by this General Permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(h))
3. When the permittee or co-permittee(s) 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 DEP or CCD, the permittee or co-permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(l)(8))
4. The permittee or co-permittee shall give seven (7) calendar days advance notice to DEP or CCD 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 (25 Pa. Code § 92a.22 and 40 CFR § 122.22)

Documents required, submitted, or maintained under this General 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 General Permit or requested by DEP or CCD 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(s) shall notify DEP or CCD within thirty (30) days of the change.

D. Transfer/Change of Ownership or Control

1. This General Permit is not transferable to any person except after notice and acknowledgment by DEP or CCD.
 - 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 DEP or CCD using the form entitled "Application for NPDES or WQM Permit Transfer" (Transfer Application) (3800-PM-BCW0041b) of such pending change at least thirty (30) days prior to the change in ownership or control.
 - b. The Transfer 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 Transfer Application form, DEP or CCD 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 and the permit will be considered modified unless DEP or CCD notifies the applicant otherwise within thirty (30) days.
2. DEP or CCD may require the new owner or operator to apply for and obtain an Individual NPDES permit.
3. For purposes of this General Permit, operators shall include general contractors. Operators who are not the permittee shall be co-permittees. 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. Complete and submit the Co-Permittee Acknowledgement for Chapter 102 Permits form (3800-FM-BCW0271a) prior to the operator engaging in earth disturbance activities; and
 - b. Ensure that monitoring reports and any other information requested under this General Permit shall reflect all changes to the permittee and the co-permittee name.

4. After receipt of the documentation described in paragraph 3 above, the permit will be considered modified by DEP or CCD unless DEP or CCD notifies the applicant otherwise within thirty (30) days. 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 public health or the environment.

F. BMP 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. Reduction, Loss, or Failure of BMP

Upon reduction, loss, or failure of any BMP, the permittee and co-permittee(s) shall take immediate action to restore, repair, or replace the BMP or to provide an alternative method of treatment. Such restored BMP or alternative treatment shall be at least as effective as the original BMP when properly installed. These actions shall be undertaken to ensure that there are no pollutants or pollution discharged to the waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause or source of the reduction, loss or failure is within or beyond the control of the permittee or co-permittee(s).

II. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee and co-permittee(s) must comply with all terms and conditions of this General Permit. Any General Permit non-compliance constitutes a violation of Pennsylvania's Clean Streams Law and the federal Clean Water Act and is grounds for enforcement action; permit termination, revocation, reissuance, or modification; or denial of a permit or permit renewal. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(a))

B. Penalties for Violations of Permit Conditions

Any person who violates a General Permit condition, fails to take corrective action to abate violations or falsifies report or other documents may be subject to criminal and/or civil penalties or other appropriate action for violations of the terms and conditions of this General Permit under Sections 602 and 605 of Pennsylvania's Clean Streams Law (35 P.S. §§ 691.602 and 691.605), and under the Clean Water Act as specified in 40 CFR §§ 122.41(a)(2) and (3), which are incorporated into 25 Pa. Code § 92a.41 by reference.

C. Need to Halt or Reduce Activity Not a Defense

The permittee may not maintain as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(c))

D. Penalties and Liability

Nothing in this General Permit shall be construed to preclude the institution of any legal action or to relieve the permittee or co-permittee(s) from any responsibilities, liabilities, or penalties to which the permittee or co-permittee is or may be subject under Section 311 of the Clean Water Act (33 U.S.C.A. § 1321) or Section 106 of Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C.A. § 9606).

E. Property Rights

This General Permit does not convey any property rights of any sort, nor does this General Permit convey any exclusive privileges, and this General Permit does not authorize any injury to private property invasion of personal rights, or infringement of federal, state, or local laws or regulations.

F. Severability

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

G. Other Laws

Nothing in this General Permit shall be construed to preclude the institution of any legal action or to 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 (33 U.S.C.A. § 1370).

H. Right of Entry

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law (35 P.S. §§ 691.5(b) and 691.305), 25 Pa. Code Chapter 92a, and section 1917-A of the Administrative Code of 1929, the permittee and co-permittee shall allow the Secretary of DEP, the EPA Regional Administrator, and/or an authorized representative of EPA, or DEP, including a delegated 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 terms and conditions of this General Permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of this General 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 and conditions of this General Permit shall be available for public inspection at the offices of DEP or CCD. As required by the Clean Water Act, the Clean Streams Law, and DEP's regulations at 25 Pa. Code § 92a.8 (relating to confidentiality of information), permit applications/NOIs, permits, and other documents related to this General Permit shall not be considered confidential.

J. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act (33 U.S.C.A. § 1319(c)(4)) 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 General 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 two (2) years or by both a fine and imprisonment. In addition, criminal sanctions are set forth for false swearing and unsworn falsification at 18 Pa.C.S. §§ 4903-4904.

K. Duty to Reapply

If the permittee wishes to continue an activity regulated by this General Permit after the expiration date of this General Permit, the permittee must timely apply for and obtain coverage under a new General Permit. (25 Pa. Code §§ 92a.3(c) and 92a.41(a)(2) and 40 CFR § 122.41(b))

PART C

OTHER CONDITIONS

I. PROHIBITION OF NON-STORMWATER DISCHARGES

All discharges covered by this General Permit shall be composed entirely of stormwater. Discharges other than those authorized by this General Permit must comply with separate NPDES permit coverage. The discharge of sewage or industrial waste to BMPs is not permitted.

II. EROSION AND SEDIMENT CONTROL PLANS

A. Unless otherwise authorized by DEP or CCD, earth disturbance activities shall, to the extent practicable, be planned and implemented to:

1. Minimize the extent and duration of earth disturbance.
2. Maximize protection of existing drainage features and vegetation.
3. Minimize soil compaction.
4. Utilize other measures or controls that prevent or minimize the generation of increased stormwater runoff.

B. An E&S Plan shall be prepared and implemented in accordance with the requirements of 25 Pa. Code Chapter 102 and by a person trained and experienced in E&S control methods and techniques applicable to the size and scope of the project being designed. Each E&S Plan must be submitted to and approved by DEP or CCD. 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 the existing and designated uses of the waters of this Commonwealth. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual* (DEP ID No. 363-2134-008), as amended and updated. Approved E&S Plans and BMPs, and approved revisions thereto, which meet the requirements of 25 Pa. Code Chapters 93, 96 (relating to water quality standards implementation), and 102, are conditions of this General Permit and are incorporated by reference.

C. E&S Plans required under this General Permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law (35 P.S. § 691.607) and 25 Pa. Code Chapter 92a. The owner or operator of a facility with stormwater discharges covered by this General Permit shall make E&S Plans available to the public upon request. The permittee shall maintain the approved E&S Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP or CCD upon request.

D. The approved E&S Plan, including the staging of earth disturbance activities and maintenance requirements, must be followed.

E. Upon the installation of all perimeter sediment control BMPs and at least three (3) days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to DEP or CCD by phone or electronic mail.

III. RECYCLING AND DISPOSAL OF BUILDING MATERIALS AND WASTES

All building materials and wastes must be removed from the site and recycled or disposed of in accordance with DEP's Solid Waste Management Regulations at 25 Pa. Code Chapter 260a (relating to hazardous waste management system: general), Chapter 271 (related to municipal waste management – general provisions), and Chapter 287 (relating to residual waste management – general provisions). No building material or wastes or unused building materials shall be burned, buried, dumped, or discharged at the site.

IV. 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 in accordance with 25 Pa. Code §§ 91.34 (relating to activities utilizing pollutants) and 102.5(l). 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 non-compliance with the terms and conditions of this General Permit due to the storage, handling, or disposal of any toxic or hazardous substances

such as oil, gasoline, pesticides, herbicides, solvents, or concrete washwaters. 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 request of DEP or CCD.

V. POST-CONSTRUCTION STORMWATER MANAGEMENT PLANS

- A. The management of post-construction stormwater shall, to the extent practicable, be planned and conducted to:
1. Preserve the integrity of stream channels and maintain and protect the physical, biological, and chemical qualities of the receiving stream.
 2. Prevent an increase in the rate of stormwater runoff.
 3. Minimize any increase in stormwater runoff volume.
 4. Minimize impervious areas.
 5. Maximize the protection of existing drainage features and existing vegetation.
 6. Minimize land clearing and grading.
 7. Minimize soil compaction.
 8. Utilize other structural or nonstructural BMPs that prevent or minimize changes in stormwater runoff.
- B. A PCSM Plan shall be prepared and implemented in accordance with the requirements of 25 Pa. Code Chapter 102 and by a person trained and experienced in PCSM design methods and in techniques applicable to the size and scope of the project being designed. The management of post-construction stormwater shall be planned and conducted in accordance with 25 Pa. Code § 102.8 (relating to PCSM requirements). Various BMPs and their design standards are detailed in the *Pennsylvania Stormwater Best Management Practices Manual* (DEP ID No. 363-0300-002), as amended and updated. Each PCSM Plan must be submitted to and approved by DEP or CCD. The PCSM Plan must employ stormwater management BMPs to control the volume, rate, and water quality of the post-construction stormwater runoff so as to protect and maintain the chemical, physical, and biological integrity, and the existing and designated uses of the waters of this Commonwealth. Approved PCSM Plans and BMPs, and approved revisions thereto, which meet the requirements of 25 Pa. Code Chapters 93, 96, and 102, are conditions of this General Permit and are incorporated by reference.
- C. PCSM Plans required under this General Permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law (35 P.S. § 691.607) and 25 Pa. Code Chapter 92a. The owner or operator of a facility with stormwater discharges covered by this General Permit shall make PCSM Plans available to the public upon request. The permittee shall maintain the authorized PCSM Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP or CCD upon request.
- D. A licensed professional or their designee shall be present on-site and shall be responsible for oversight of critical stages of implementation of the approved PCSM Plan. The licensed professional will be responsible to provide a final certification, pursuant to 25 Pa. Code § 102.8(l) along with the required NOT and record drawings, indicating that the project site was constructed in accordance with the approved or modified PCSM Plan.
- E. The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from pipelines or other similar utility infrastructure may be used to satisfy the PCSM requirements if the PCSM reclamation or restoration plan meets the requirements of 25 Pa. Code §§ 102.8(b), (c), (e), (f), (h), (i), (l), and when applicable, (m).

VI. PRE-CONSTRUCTION MEETING

For earth disturbance activities authorized by this General Permit, a pre-construction meeting is required, unless the permittee has been notified otherwise in writing by DEP or CCD. The permittee shall invite DEP and CCD to attend the pre-construction meeting and provide at least seven (7) days' notice of the pre-construction meeting to all invited attendees. Permittees, co-permittees, operators, and licensed professionals, or designees responsible for earth disturbance activity, including implementation of E&S, PCSM and PPC Plans and critical stages of implementation of the approved PCSM Plan, shall attend the pre-construction meeting.

VII. SPOIL OR BORROW AREAS

- A. An E&S Plan or other authorization meeting the regulatory requirements detailed in 25 Pa. Code § 102.4(b) shall be reviewed and approved by DEP or CCD and implemented for all spoil and borrow areas, regardless of their location.
- B. Clean Fill Requirements – Any person placing clean fill that has been affected by a spill or release of a regulated substance must use DEP Form FP-001 (Certification of Clean Fill) 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 DEP's municipal or residual waste regulations based on 25 Pa. Code Chapters 271 or 287, whichever is applicable.

VIII. PHASED PROJECTS

Prior to the commencement of earth disturbance activities for subsequent phases of the project, the permittee or co-permittee(s) shall submit an E&S Plan and PCSM Plan and supporting information for each additional phase or portion of the project to DEP or CCD for approval. Coverage under this General 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 DEP or CCD. Permittees and co-permittees with phases commenced after expiration of this PAG-02 General Permit shall be responsible for complying with the final renewed, reissued, or amended General Permit.

IX. WETLAND PROTECTION

If hydric soils or other wetland features are present, a wetland determination must be conducted in accordance with applicable DEP procedures. A copy of any wetland determination conducted on the project site shall be provided to DEP or CCD as part of the NOI. 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.

X. INFILTRATION BMPs

The permittee and co-permittee(s) shall ensure that soil compaction is avoided or minimized in any areas where infiltration BMPs will be utilized. If the areas planned for infiltration BMPs are compromised through compaction or other means, additional soil testing must be performed to verify that the infiltration BMPs will perform as planned.

XI. STABILIZATION

Upon final completion of an earth disturbance activity or any stage or phase of an activity; or temporary cessation of the earth disturbance activity, or any stage or phase of an activity where the cessation of earth disturbance will exceed four (4) days, the project site shall be immediately stabilized in accordance with the requirements of 25 Pa. Code §102.22(a) or (b) (relating to site stabilization), as applicable. E&S BMPs shall be implemented and maintained until permanent stabilization is completed. Once permanent stabilization has been established the temporary E&S BMPs shall be removed. Any areas disturbed in the act of removing temporary E&S BMPs shall be permanently stabilized upon completion of the temporary E&S BMP removal activity.

XII. SEWAGE FACILITIES

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

XIII. LONG-TERM OPERATION AND MAINTENANCE OF PCSM BMPs

- A. The permittee or co-permittee shall be responsible for long-term O&M of PCSM BMPs unless a different person is identified in the NOT and that person has agreed to long-term O&M of PCSM BMPs.
- B. For any property containing a PCSM BMP, the permittee or co-permittee shall record an instrument with the Recorder of Deeds which will assure disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property within 45 days of approval of coverage under this General Permit, unless extended in writing by DEP or CCD. The recorded instrument must identify the PCSM BMPs, provide

for necessary access related to long-term O&M for PCSM BMPs, and provide notice that the responsibility for long-term O&M of the PCSM BMPs is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees. The permittee shall provide DEP or CCD proof of filing of the instrument recording with a Transfer Application, if applicable, and the NOT.

- C. For Commonwealth-owned property, a covenant that runs with the land is not required until the transfer of the land containing a PCSM BMP occurs. Upon transfer of the Commonwealth-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m). An agency of the federal government shall not be required to make or record a declaration of covenants on its property until transfer of the property to a non-federal or non-Commonwealth entity or individual. Upon transfer of the Commonwealth-owned or federally-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m).
- D. The person responsible for performing long-term O&M may enter into a written agreement with another person, including a conservation district, nonprofit organization, municipality, authority, private corporation, or other person, to transfer the responsibility for PCSM BMPs or to perform long-term O&M and provide notice thereof to DEP.
- E. A permittee or co-permittee that fails to transfer long-term O&M of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term O&M of the PCSM BMPs located on the property.
- F. Unless an alternative process is approved by DEP in writing, upon the sale or other transfer of any parcel, lot, road or other real property included within the permit boundary, the permittee shall notify the purchaser, grantee, or transferee of the long-term PCSM BMP O&M requirements. The permittee shall expressly identify the PCSM BMPs on each property, the schedule for inspection and reporting, the person or entity responsible for long-term O&M of the PCSM BMPs and how access to the BMPs will be achieved and shall obtain approval from the purchaser, grantee or transferee. Unless a later date is approved by DEP in writing, the permittee shall provide DEP and CCD with notice of compliance with this section within 45 days from the date of transfer of the property and at the time the permittee files an NOT.

XIV. VOLUNTARY RIPARIAN FOREST BUFFERS

Persons that protect, convert, or establish a new riparian forest buffer that meets the requirements of 25 Pa. Code § 102.14(b) (relating to riparian buffer criteria) may qualify for benefits under 25 Pa. Code §§ 102.14(e)(1) (relating to antidegradation presumption) and (2) (relating to trading or offsetting credits).

XV. IMPLEMENTATION OF GENERAL PERMIT REQUIREMENTS

- A. Prior to commencement of construction activities or commencement of work on the project site, the permittee and co-permittee(s) shall ensure that the following personnel understand the requirements of, and their specific responsibilities under, this General Permit:
 - Personnel responsible for the installation, maintenance, and/or repair of E&S and PCSM BMPs and implementation of the PPC Plan.
 - Personnel responsible for the application and storage of treatment chemicals (if applicable).
 - Personnel responsible for conducting inspections.
 - Personnel responsible for taking corrective actions.
- B. The permittee and co-permittee(s) are responsible for ensuring that all activities on the project site comply with the requirements of this General Permit. The permittee and co-permittee(s) are not required to provide or document formal training for subcontractors or other outside service providers, but the permittee and co-permittee(s) must ensure that personnel understand any requirements of this General Permit that are relevant to the work they are subcontracted to perform.

- C. At a minimum, the permittee and co-permittees must ensure that personnel understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections).
- The General Permit deadlines associated with installation, maintenance, and removal of stormwater controls, and with site stabilization.
 - The location of all stormwater controls on the project site required by this General Permit and how they are to be maintained.
 - The proper procedures to follow with respect to the General Permit's pollution prevention requirements.
 - When and how to conduct inspections, record applicable findings, and take corrective actions.
- D. A training log must be kept on-site and made available upon request from EPA, DEP, or CCD staff.
- E. All personnel must have access at all times during earth disturbance activities to an electronic or paper copy of this General Permit, the approved copies of the E&S, PCSM and PPC Plans, and other relevant documents or information that must be kept with these plans.

XVI. THREATENED AND ENDANGERED SPECIES PROTECTION

- A. If applicable, the permittee and co-permittee(s) shall comply with the provisions of any Habitat Conservation Plan approved by the jurisdictional resource agencies to protect State or Federal threatened and endangered species.
- B. If any potential impact to federal or state threatened or endangered species is identified on the Pennsylvania Natural Diversity Inventory (PNDI) receipt, the permittee shall implement any avoidance/mitigation measures indicated on the PNDI receipt and/or other measures determined necessary by the resource agencies in a clearance letter, determination or other correspondence to resolve potential species impacts and ensure compliance with applicable federal and State laws pertaining to the protection of Federal or State threatened and endangered species.
- C. When conducting earth disturbance activities, the permittee and co-permittee(s) have a continuing obligation to ensure compliance with applicable state and federal laws pertaining to the protection of Federal or State threatened and endangered species.