pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATERWAYS ENGINEERING AND WETLANDS

APPROVAL OF COVERAGE UNDER THE GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES PAG-02 (2012 Amendment)

NPDES PERMIT NO: PAG-02

Project Name & Address

Permittee Name & Address

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 **from an earth disturbance activity that involves equal to or greater than one acre of earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves equal to or greater than one acre of earth disturbance,** to the following surface water(s) of this Commonwealth:

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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 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 sewers. 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 FIVE YEARS WHEN CONDUCTED PURSUANT TO THE TERMS AND CONDITIONS OF THE APPLICABLE PERMIT. 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. 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 (2012 Amendment)

This permit applies to earth disturbance activities that disturb equal to or greater than 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 equal to or greater than one (1) acre of earth disturbance.

This permit does not apply to agricultural plowing and tilling, animal heavy use areas, 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 (ESCGP).

1. DEFINITIONS

Note: Terms used in this 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 – The Environmental Protection Agency (EPA) regional administrator.

Antidegradation Best Available Combination of Technologies (ABACT) – 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.

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. § 851(c), as amended) that has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion, sediment, and stormwater management program in the Commonwealth of Pennsylvania.

Best Management Practices (BMPs) – 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.

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.

Critical Stages – The installation of underground treatment BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by the Department or the authorized conservation district.

CSO – Abbreviation for Combined Sewer Overflows

Department – The Department of Environmental Protection of this Commonwealth.

Director – The Director of the Bureau of Waterways Engineering and Wetlands, or any authorized employee thereof.

Earth Disturbance Activity – 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,

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oil and gas activities, well drilling, 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 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 – Abbreviation for the Environmental Protection Agency

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 consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during, and after earth disturbance activities.

Licensed Professional – Professional engineers, landscape architects, geologists, and land surveyors licensed to practice in the Commonwealth.

Long-term Operation and Maintenance – The routine inspection, maintenance, repair, or replacement of a BMP to ensure proper function for the duration of time that the BMP is needed.

MCM – Abbreviation standing for Minimum Control Measure.

MS4 – Abbreviation standing for Municipal Separate Storm Sewer System. A separate storm sewer (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) which is all of the following:

(i) Owned or operated by a State, city, town, borough, county, district, association or other public body (created by or under state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Federal Act (33 U.S.C.A. § 1288) that discharges to surface waters of this Commonwealth.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Not a combined sewer.

(iv) Not part of a POTW.

Municipality – 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.

Notice of Intent (NOI) – A request, on a form provided by the Department, for coverage under a General NPDES Permit for Stormwater Discharges Associated with Construction Activities.

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

Nondischarge 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.

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 or PCSM Plan.

Owner – 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.

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

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

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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 – 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 – 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) – 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.

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, and that is developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of this Commonwealth.

Project site – 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.

(iii) Other areas which are not subject to earth disturbance activity.

Riparian Buffer – A BMP that is an area of permanent vegetation along surface waters.

Riparian Forest Buffer – 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.

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, 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.

Total Maximum Daily Load (TMDL) – The sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, a margin of safety and natural background. TMDLs can be expressed in mass per time, toxicity, or other appropriate measures.

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 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.

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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 (E&S) 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) E&S control BMPs shall be designed and implemented to meet the standards and specifications identified in the Department'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 the Department's *Erosion and Sediment Pollution Control Program Manual*, No. 363-2134-008, as amended and updated, or an approved alternative that is at least as effective or better, when legally authorized.

      (4) PCSM BMPs shall be designed and implemented to meet the standards and specifications identified in the Department's regulations, including 25 Pa. Code § 102.8 (relating to PCSM requirements) and 102.11(a)(2), and listed in the Department's *Pennsylvania Stormwater Best Management Practices Manual*, No. 363-0300-002, as amended and updated, or approved alternative that is as at least as effective or better, when legally authorized.

      (5) The E&S Plan, PCSM Plan, and 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 shall have the E&S Plan, PCSM Plan, PPC Plan, and other documents required by this permit maintained at the site and available for review by the Department, authorized conservation district, or other authorized local, state, or federal agent or representative.

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b. The following activities are not eligible for coverage under this permit:

(1) Discharges to waters, including wetlands, with a designated or existing use of High Quality or Exceptional Value pursuant to 25 Pa. Code Chapter 93 (relating to Water Quality Standards);

(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 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;

(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 the Department or authorized conservation district;

(7) Discharges subject to categorical point source effluent limitations promulgated by EPA for categories other than construction or post construction;

(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;

(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 unless an analysis is completed which documents that the discharge will neither cause nor contribute to an impairment of the receiving water;

(14) Discharges of pollutants of concern to waters for which there is a Total Maximum Daily Load (TMDL) established or approved by EPA including the Chesapeake Bay 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;

(15) Discharges to MS4 and 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. 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

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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. NOIs for which a payment (check, electronic transfer, etc.) for either a base permit fee of a disturbed acreage fee have been processed as part of an administratively complete application that are returned for insufficient funds will be suspended until sufficient funds are provided. Any earth disturbance activity that has been authorized by the permit but the Department or conservation district is notified at a later date that the permit application fee(s) were not paid will be immediately suspended and the site must be immediately stabilized until the fees or sufficient funds are received. If the fees/funds are not received and paid in full within 30 days, the permit authorization will be revoked.

e. 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.

f. 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 permit and the NOI, including any appendices, attachments, plans, and other supporting documentation, the more environmentally protective provision applies.

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4. 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 plan prepared and implemented in accordance with 25 Pa. Code § 102.4 and 102.8, the permittee and/or co-permittee shall submit a NOT to the Department or authorized conservation district. The NOT must include:

i. The facility name, address, and location;

ii. The operator name and address;

iii. The permit number;

iv. The reason for the permit termination; and

v. Identification of the persons who have agreed to and will be responsible for the long-term operation and maintenance of PCSM BMPs.

(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 permit terms and conditions, including long-term operation and maintenance of all PCSM BMPs on the project site in accordance with 25 Pa. Code § 102.8(m) The Department or authorized conservation district will conduct a follow up inspection and approve or deny the NOT within 30 days of 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” with 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.A. § 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. The permittee shall also provide a copy of the record drawings as part of the approved PCSM Plan to the persons identified as responsible for the long term operation and maintenance of PCSM BMPs. Permittees shall also provide copies of both the record drawings and the long-term operation and maintenance plan to the Department, authorized conservation district, and municipality.

The General NPDES Permit for Stormwater Discharges Associated with Construction Activities PAG-02 is issued December _____ , 2012 and shall expire at midnight December _____, 2017 unless reissued or extended on or before this date by the Department.

BY: _____

JEFFREY MEANS, DIRECTOR
BUREAU OF WATERWAYS ENGINEERING AND WETLANDS

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PART A

EFFLUENT LIMITATIONS, MONITORING, AND REPORTING REQUIREMENTS

1. EFFLUENT LIMITATIONS

a. BMPs

Except as required by 25 Pa. Code §102.11(c), 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 volume, rate, 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. 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. Applicable Effluent Limitations

Activities covered under this permit must comply with applicable effluent limitations established in 25 Pa. Code Chapters 91, 92a, 93, 96, 102, and 105 and any applicable federal law or regulation, including the effluent guidelines for construction at 40 CFR Part 450.

c. Water Quality Based Effluent Limitations

Water quality based effluent limitations are applicable to activities conducted under this permit when required under applicable state and federal law or regulation to ensure that the water quality standards of the receiving water are attained. Activities conducted under this permit 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 and documented weekly, and within 24 hours after each measurable stormwater 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 on a form developed by the Department, and conducted by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that E&S, PCSM and PPC 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 and PCSM BMPs, implementation and maintenance and compliance actions; and

(2) The date, time, name and signature of the person conducting the inspection.

b. Licensed Professional Oversight of Critical Stages

A licensed professional or a designee shall be present onsite and 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 the Department or authorized conservation district.

c. 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 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 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 five (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

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

d. 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 § 92a.61 (relating to monitoring). The permittee or co-permittee shall commence such monitoring upon notification from the Department or authorized conservation district.

e. Availability of Reports

Except for data determined to be confidential under Section 607 of the Clean Streams Law, all reports and other information prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate Department Regional Office 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, all monitoring information (including site log book, calibration and maintenance records) and records of data used to complete the NOI for this permit, for a period of three years from the date of the termination of coverage under this permit 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 the Department or authorized conservation district.

b. Reporting of Monitoring Results

Visual inspection 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.

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PART B

STANDARD CONDITIONS

1. MANAGEMENT REQUIREMENTS

a. Permit Modification, Termination, or Revocation and Reissuance

(1) The General Permit will expire five (5) years from the date of its issuance. The authorization period for the permit will be five (5) years for all permits from the date of authorization. The Department will publish a notice in the *Pennsylvania Bulletin* of the draft, renewed, or reissued General Permit or 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, including coverage extended pursuant to Section 3(c) of this 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 40 CFR § 122.28(b)(2)(vi); 25 Pa. Code § 92a.54(c) and (d) (relating to general permits).

(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 92a 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.

(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 92a 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 92a and 102.

b. Duty to Provide Information

(1) The permittee or co-permittee(s) shall furnish to the Department or authorized conservation district within thirty (30) days of the date of request, any information that the Department or authorized 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, EPA 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 (7) 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;

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(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 thirty (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 thirty (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 thirty (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; and

(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. 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.

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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 BMP

Upon reduction, loss, or failure of any BMP, the permittee and co-permittee shall take immediate action to restore, repair, or replace the BMP or 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 should 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.

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

Any person who violates a 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 the 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 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 Clean Water Act (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 92a, and §1917-A of the Administrative Code of 1929, the permittee and co-permittee shall allow the Director of the Department, the EPA Regional Administrator, and/or an authorized representative of EPA, or the Department, 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

SAMPLE

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 Law, and the Department's regulations at 25 Pa. Code § 92a.8 (relating to confidentiality of information), 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 two years or by both. In addition, criminal sanctions are set forth for false swearing and unsworn falsification at 18 Pa.C.S. §§ 4903-4904.

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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, when required, 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. Unless otherwise authorized by the Department or conservation district after consultation with the Department, earth disturbance activities shall be planned and implemented to the extent practicable in accordance with the following:

(i) Minimize the extent and duration of earth disturbance.

(ii) Maximize protection of existing drainage features and vegetation.

(iii) Minimize soil compaction.

(iv) 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 erosion and sediment 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 the Department or authorized conservation district. 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 website at www.dep.state.pa.us. E&S Plans and BMPs, and 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 permit and are incorporated by reference.

c. 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 92a 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.

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

e. Upon the installation or stabilization 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 the Department or authorized conservation district.

f. The E&S Plan must be consistent with the assumptions and requirements of any assigned Wasteload Allocations (WLAs) 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 Ch. 260a (relating to hazardous waste management system: general), Ch. 271 (related to municipal waste management system – general provisions), and Ch.287 (relating to residual waste management system – general provisions). No building material or wastes or unused building materials shall be burned, buried, dumped, or discharged at the site.

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4. PREPAREDNESS, PREVENTION, AND CONTINGENCY (PPC) 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). 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, concrete washwaters, 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 district's request.

5. POSTCONSTRUCTION STORMWATER MANAGEMENT PLANS

a. The management of post construction stormwater shall be planned and conducted to the extent practicable in accordance with the following;

(i) Preserve the integrity of stream channels and maintain and protect the physical, biological, and chemical qualities of the receiving stream.

(ii) Prevent an increase in the rate of stormwater runoff.

(iii) Minimize any increase in stormwater runoff volume.

(iv) Minimize impervious areas.

(v) Maximize the protection of existing drainage features and existing vegetation.

(vi) Minimize land clearing and grading.

(vii) Minimize soil compaction.

(viii) 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 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. 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 website at www.dep.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 and designated uses of the waters of this Commonwealth.

c. 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 92a 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.

d. A licensed professional or their designee shall be present onsite and 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 PCSM Plan must be consistent with the assumptions and requirements of any available WLAs as set forth in any applicable TMDLs established for the receiving waters.

f. 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) and (l), and when applicable, (m).

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6. PRECONSTRUCTION CONFERENCES

For earth disturbance activities authorized by this permit, a preconstruction meeting is required, unless the permittee has been notified otherwise in writing by the Department or authorized conservation district. The permittee shall invite the Department or authorized conservation district to attend the preconstruction meeting and provide at least seven (7) days notice of the preconstruction 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 preconstruction meeting. Permittees, co-permittees, operators and licensed professionals are responsible for ensuring that all activities on the site comply with the requirements of the permit.

7. SPOIL OR BORROW AREAS

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 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 (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 the Department's municipal or residual waste regulations based on 25 Pa. Code Chapters 271 or 287, 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. Permittees and co-permittees with phases commenced after termination of this PAG-02, 2012 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. A copy of that wetland determination should be provided to the Department or authorized conservation district as part of the NOI/application. 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 through compaction or other means, additional soil testing must be performed to verify that the BMP will perform as planned.

12. 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.

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13. SEWAGE FACILITIES

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

14. LONG-TERM OPERATION AND MAINTENANCE

    a. The permittee or co-permittee shall be responsible for long-term operation and maintenance of PCSM BMPs unless a different person is identified in the NOT and that person has agreed to long-term operation and maintenance 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. The recorded instrument must identify the PCSM BMP, provide for necessary access related to long-term operation and maintenance for PCSM BMPs, and provide notice that the responsibility for long-term operation and maintenance of the PCSM BMPs is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees, and provide proof of filing with the NOT under 25 Pa. Code § 102.8(m)(2).

    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)(3). 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)(3).

    d. The person responsible for performing long-term operation and maintenance 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 operation and maintenance and provide notice thereof to the Department.

    e. A permittee or co-permittee that fails to transfer long-term operation and maintenance of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term operation and maintenance of the PCSM BMPs located on the property.

    f. Unless a later date is approved by the Department in writing, the permittee shall record an instrument as required under 25 Pa. Code § 102.8(m)(2) and Condition 14b of this permit within 45 days from the date of issuance of this permit or authorization. Unless the Department authorizes a different procedure, the long-term operation and maintenance plan shall be recorded along with the instrument. Unless a later date is approved by the Department in writing, the permittee shall provide the conservation district and the Department with the date and place of recording along with a reference to the docket, deed book or other record, within 90 days from the date of issuance of this permit or authorization

    g. Unless an alternative process is approved by the Department 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 operation and maintenance 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 operation and maintenance 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 the Department in writing, the permittee shall provide the conservation district and the Department 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 a Notice of Termination.

15. 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 requirements) may qualify for benefits under 25 Pa. Code § 102.14(e)(1) and (2) relating to the antidegradation presumption and trading or offsetting of credits.

16. MUNICIPAL SEPERATE STORM SEWER SYSTEMS (MS4s) MCM FULFILLMENT

    MS4s subject to PAG-13 permit coverage requirements may choose to rely on Pennsylvania's Chapter 102 permitting program and this permit to satisfy their MS4 NPDES permit obligations related to their MCM 4 (Construction) and MCM 5 (Post Construction), BMPs 1 through 3 obligations as part of a qualified local program.

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17. PUBLIC NOTICE FOR NOIs INCLUDING AN OFFSET

NOIs that propose an offset of stormwater or riparian forest buffers shall have a thirty day public notice period in the *Pennsylvania Bulletin* before the final authorization of the permit(s) including the offset or trade.

SAMPLE