



AUTHORIZATION OF COVERAGE UNDER THE EROSION AND SEDIMENT CONTROL
GENERAL PERMIT FOR EARTH DISTURBANCE ASSOCIATED WITH OIL AND GAS
EXPLORATION, PRODUCTION, PROCESSING, OR TREATMENT OPERATIONS OR
TRANSMISSION FACILITIES
ESCGP-2

AUTHORIZATION NUMBER: _____

Project Name & Location

Permittee Name & Address

Blank lines for project name, location, permittee name, and address.

In compliance with the provisions of Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq., the Oil and Gas Act 58 P.S. §§ 601.101 et seq. and regulations promulgated thereto, including 25 Pa Code Chapters 78,93 and 102, and sections 1905-A, 1917-A and 1920-A of the Administrative Code of 1929, 71 P. S. §§ 510-5, 510-17 and 510-20, the Department of Environmental Protection (Department) hereby authorizes the Notice of Intent (NOI) submitted for coverage to conduct oil and gas activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project at the above named location(s):

subject to the Department's enclosed ESCGP-2 which incorporates all requirements and conditions. Authorization to conduct oil and gas activities is subject to the implementation of the plans and additional associated information submitted as part of the NOI.

This authorization is granted to conduct oil and gas activities using erosion and sediment control and stormwater management best management practices (BMPs) within the project indicated above and in compliance with all representations set forth in your application and its supporting documents and permit conditions attached hereto.

Earth disturbance activities conducted in accordance with the terms and conditions herein may commence on the date of the authorization of permit coverage. This authorization is valid for a period of five years when activities are conducted pursuant to such terms and conditions. The Department may terminate this authorization prior to the expiration date upon notice. No condition of this permit shall release the permittee(s) from any responsibility or requirement under Pennsylvania's statutes or regulations or local ordinances.

AUTHORIZATION DATE: _____

EXPIRATION DATE: _____

AUTHORIZED BY: _____

TITLE: _____

**EROSION AND SEDIMENT CONTROL GENERAL PERMIT FOR EARTH DISTURBANCE ASSOCIATED WITH
OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, OR TREATMENT OPERATIONS OR
TRANSMISSION FACILITIES**

ESCGP-2 (2011 Amendment)

This permit applies to oil and gas activities that disturb equal to or greater than five (5) acres, 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 five (5) acres of earth disturbance.

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

1. AUTHORITY

- a. ESCGP-2 is authorized by the Clean Streams Law, 35 P.S. Section 691.1 *et seq.*, the Oil and Gas Act 58 P.S. §§ 601.101 *et seq.* and regulations promulgated thereto, including, 25 Pa Code Chapters 78, 93 and 102 regulations promulgated thereto, and sections 1905-A, 1917-A and 1920-A of the Administrative Code of 1929, 71 P. S. §§ 510-5, 510-17 and 510-20,
- b. 25 Pa. Code § 102.5(m)(1) allows for the issuance of general permits on a regional or Statewide basis or limited to specific watersheds, particular categories of streams or designated geographic regions, for a category of activities not subject to the NPDES requirements, but regulated under Chapter 102, provided that (1) the projects in the category or similar in nature; (2) the projects in the category can be adequately regulated utilizing standardized specifications and conditions, including reference to specific criteria and requirements adopted by another Federal or State agency which adequately regulate the particular category of activities; (3) the projects which are in the category and meet the specifications and conditions will comply with Chapter 102; (4) the projects which are in the category in the opinion of the Department are more appropriately controlled under a general permit than under individual permits; and (5) the projects which are in the category individually and cumulatively do not have potential to cause significant adverse environmental impact. ESCGP-2 is an E&S Permit under Chapter 102 and is issued pursuant to Section 102.5(m).
- c. 25 Pa Code § 102.5(c) provides: "A person proposing oil and gas activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project shall obtain an E&S Permit under this chapter prior to commencing the earth disturbance activity." Earth disturbance activities authorized by this permit must comply with all the terms, conditions, and processing procedures identified in this ESCGP-2.

2. DEFINITIONS

The following terms are defined for the purposes of ESCGP-2:

ABACT – Antidegradation Best Available Combination of Technologies – Environmentally sound and cost effective treatment, land disposal, pollution prevention and stormwater reuse 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.

BMPs – Best Management Practices – 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 existing and designated uses of waters of this Commonwealth before, during, and after earth disturbance activities.

Conservation District – A conservation district, as defined in Section 3(c) of the conservation district law (3 P.S. Section 851(c), as amended) that has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion, sediment, and stormwater management program in the Commonwealth of Pennsylvania.

Co-Permittee/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 conservation district.

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

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, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

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

E&S Plan – Erosion and Sediment Control 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.

Floodplain – The lands adjoining a river or stream that have been or may be expected to be inundated by flood waters in a 100-year frequency flood. Unless otherwise specified, the boundary of the floodplain is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodplain, it is assumed absent evidence to the contrary, that the floodplain extends from (1) any perennial stream to 100 feet horizontally from the top of the bank, and (2) from any intermittent stream to 50 feet horizontally from the top of the bank of such intermittent stream.

Floodway – The channel of the watercourse and portions of the adjoining Floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the Floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency Floodway, it is assumed, absent evidence to the contrary, that the Floodway extends from the stream to 50 feet from the top of the bank of the stream. See 25 Pa. Code § 105.1

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, repairs, or replacements, of a BMP to ensure proper function for the duration of time that the BMP is needed.

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.

NOI – Notice of Intent – A request, on a form provided by the Department, for coverage under an erosion and sedimentation control general permit for earth disturbances associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

NOT – Notice of Termination – A request, on a form provided by the Department, to terminate coverage under an erosion and sedimentation control general permit for earth disturbances associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

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.

Oil and gas activities - Earth disturbance associated with oil and gas exploration, production, processing or treatment operations or transmission facilities.

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 or persons who hold 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.

PCSM Plan – Post Construction Stormwater Management 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.

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 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.

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.

Road Maintenance Activity –

- (i) Earth disturbance activities within the existing road cross-section or railroad right-of-way including the following:
 - (A) Shaping or restabilizing unpaved roads.
 - (B) Shoulder grading.
 - (C) Slope Stabilization.
 - (D) Cutting of existing cut slopes
 - (E) Inlet and endwall cleaning.
 - (F) Reshaping and cleaning drainage ditches and swales.
 - (G) Pipe cleaning.
 - (H) Pipe replacement.
 - (I) Support activities incidental to resurfacing activities such as minor vertical adjustment to meet grade of resurfaced area.
 - (J) Ballast cleaning.

(K) Laying additional ballast.

(L) Replacing ballast, ties and rails.

(M) Other similar activities.

(ii) The existing road cross-section consists of the original graded area between the existing toes of fill slopes and tops of cut slopes on either side of the road and any associated drainage features.

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.

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.

Well Pad – The area surrounding an oil or gas wellhead that is subject to earth disturbance and that is used or planned for use for the drilling, production or plugging of the well, including associated support activities (such as storage of chemicals, wastewater, drill cutting, and equipment). The well pad does not include roads, pipelines, and facilities for the withdrawal, storage, and conveyance of freshwater.

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.

3. SCOPE OF ACTIVITIES

a. ESCGP-2 applies to oil and gas activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project. ESCGP-2 applies only to activities within the Commonwealth of Pennsylvania. ESCGP-2 does not obviate the need to obtain other Federal, State, or local authorizations required by law. Persons subject to and operating under ESCGP-2 may not commence the earth disturbance activities until receipt of written acknowledgement of coverage under ESCGP-2 from the Department, after Department review and authorization of the NOI and associated E&S and PCSM Plans.

b. ESCGP-2 does not apply to the following activities:

- (1) 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;
- (2) Discharges or earthmoving activities which are not, or will not be, in compliance with any of the terms or conditions of this general permit;
- (3) Discharges or earthmoving activities 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 conservation district;
- (4) Discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards;
- (5) Discharges or earthmoving activities which are likely to directly or indirectly adversely affect a State or Federal threatened or endangered species or a species proposed for such designation, or which is likely to destroy or adversely modify the critical habitat of such a species, as identified under the

Federal Endangered Species Act of 1973; Title 30, Chapter 75 of the Pa. Fish and Boat Code; Title 17, Chapter 25, Conservation of Wild Plants; and Title 31 Chapter 133 Game Wildlife code.

- (6) Discharges which individually or cumulatively have the potential to cause significant adverse environmental impact.

4. PERMIT RENEWAL MODIFICATION, TERMINATION, OR REVOCATION AND REISSUANCE

- a. The Department will publish a notice of any draft, renewed, or reissued general permit or of any amendments to this general permit in the *Pennsylvania Bulletin*. After a comment period notice, the final, renewed, reissued or amended general permit will be published in the *Pennsylvania Bulletin*. Any person with an unexpired authorization of coverage under the general permit shall be responsible for complying with the final renewed, reissued or amended general permit. Such persons shall be covered by the general permit even if the permittee has not submitted a separate NOI to be covered by such final renewed, reissued or amended general permit.
- b. This permit may be modified, suspended, revoked, reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapter 102, or to require compliance with updated water quality standards or impaired water listings.
- c. 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.
- d. Permit modification or revocation will be conducted according to 25 Pa. Code Chapter and 102.

5. AUTHORITY AND RESPONSIBILITIES OF THE DEPARTMENT OR CONSERVATION DISTRICTS

- a. The Department or 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 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 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 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 conservation district may request copies of records required to be kept by this permit.
- d. The Department reserves the rights to modify, suspend, revoke or terminate previous coverage under this permit if the permittee(s) shows a lack of ability or intent to comply with the provisions of the permit, or has exhibited a history of non-compliance with the permit conditions.
- e. The Department will review NOIs, including erosion and sediment control plans and post-construction stormwater management/site restoration plans, to ensure that applicants have submitted complete and acceptable applications.

6. NOTICE OF INTENT (NOI) SUBMITTAL

- a. Persons proposing to conduct oil and gas activities that disturb equal to or greater than five (5) acres, 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 five (5) acres of earth disturbance, who wish to be covered by this general permit, must submit an administratively complete and acceptable Notice of Intent (NOI) to the Department or conservation district.
- b. The NOI for coverage under this this permit must include E&S and PCSM Plans developed in accordance with the requirements of 25 Pa. Code Chapter 102.
- b. The Department offers an optional expedited permit process to person seeking an ESCGP-2. NOIs for coverage under ESCGP-2 submitted through the expedited permit process which qualify for permit coverage will be provided with an acknowledgement of coverage under the ESCGP-2 within 14 business days from the submission of a complete and accurate NOI. With respect to review of NOIs for ESCGP-2

for oil and gas activities that are not under the expedited process, the Department will establish as its objective to complete its review of complete submissions within 60 calendar days. A person proposing oil and gas activities under ESCGP-2 must obtain written authorization from the Department prior to commencing the earth disturbance activity.

- c. The Department offers an optional phased permit process to persons seeking coverage under ESCGP-2. Before initiating any earth disturbance activities on each subsequent phase, the permittee must submit to the Department the information listed on "NOI Administrative Completeness Checklist Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities," Document Number 5500-PM-OG005, for that phase, for review and authorization. The Department will publish a notice in the Pennsylvania Bulletin for each subsequent phase.
- d. Major modifications to the authorized E&S Plan involving new or additional earth disturbance activity and/or the addition of a point source discharge will require prior authorization by the Department or conservation district and may require the submittal of a new NOI. All minor modifications to the E&S Plan and PCSM Plan shall be noted on the plan that is available at the site and initialed by the Department or conservation district staff. Minor changes to the E&S Plan or the PCSM Plan may include adjustments to BMPs and locations within the permitted boundary to improve environmental performance within the scope of the authorized E&S Plan, change in ownership or address, typographical errors and field adjustments on-site such as the addition or deletion of BMPs to address unforeseen circumstances.
- e. Operators conducting oil and gas activities must implement and maintain E&S BMPs and PCSM BMPs and other pollution prevention measures required by this permit to minimize accelerated erosion and sedimentation before, during, and after construction activities.
- f. The NOI must be filed in accordance with the detailed instructions specified in the NOI package.
- g. NOIs shall include proof of consultation with the Pennsylvania Natural Heritage (PNHP) regarding the presence of a State or Federal threatened or endangered species on the project site. If the Department or conservation district determines, based on PNHP data or other sources, that the proposed earth disturbance activity may adversely impact the species or critical habitat, it must be resolved with the appropriate agency prior to submitting the NOI. Information on PNHP searches is available through the PA Department of Conservation and Natural Resources, Bureau of Forestry, Ecological Services Section, P.O. Box 8552, Harrisburg, PA 17105-8852, telephone 717 787-3444 and at www.naturalheritage.state.pa.us.
- h. If hydric soils including soil map units with hydric inclusions of hydric components or other wetland features are present, a wetland determination must be conducted in accordance with Department procedures. A copy of the wetland determination should be provided to the Department or conservation district as part of the NOI/application. All wetlands identified must be included on the E&S Plan and PCSM Site Restoration Plan. Special precautions must be taken to protect wetlands and other water resources identified in the NOI, plans, and other supporting documents.
- i. Persons requesting a renewal of coverage under this general permit must submit to the Department or conservation district an administratively complete and acceptable NOI, at least 60 days prior to the expiration date of the coverage, unless permission has been granted by the Department or 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 conservation district is unable, through no fault of the permittee, to reissue the authorization for coverage before the expiration date of the authorized coverage, the terms and conditions of the authorized 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.
- j. No condition of this permit shall release any person from any responsibility or requirements under other Federal or Pennsylvania environmental statutes or regulations or applicable local ordinances.
- k. Authorization of coverage under this permit does not authorize well site preparation or well drilling within 100 feet measured horizontally from any stream, spring or body of water as identified on the most current 7 ½ minute topographic quadrangle map of the United States Geologic Survey or within 100 feet of any wetlands greater than one acre in size. Persons proposing to prepare a well site or drill a well that meets the criteria

listed above must request a waiver to the Department in accordance with Section 601.206 of the Oil and Gas Act.

- l. The authorization 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 authorization and are enforceable as a condition of the authorization. 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.
- l. The expedited permit process will not be available to person seeking an ESCGP-2 for the following activities:
 - (1) Projects located in or with the potential to discharge to waters that have a designated or existing use of High Quality or Exceptional Value pursuant at Chapter 93 (relating to water quality standards).
 - (2) Projects in which the Well Pad will be constructed in or on a floodplain.
 - (3) Earth disturbance activities on lands that are known to be currently contaminated by the release of regulated substances as defined in Section 103 of Act 2, 35 P.S. § 6026.103.
- m. NOIs for coverage under an this permit which are submitted through the expedited permit process shall be prepared and certified by a licensed professional who has attended up-to-date training provided by the Department's Bureau of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities. All accompanying erosion and sediment control plans and post-construction stormwater management/site restoration plans shall be sealed by the licensed professional that prepared or supervised the preparation of the application and plans. For such projects, the seal must be placed on each plan drawing and on the cover of the narrative.
- n. NOIs for coverage under this permit for projects described in (l) above, shall be prepared and certified by a licensed professional and all accompanying erosion and sediment control plans and post-construction stormwater management/site restoration plans must be sealed by the licensed professional that prepared or supervised the preparation of the application and plans. For such projects, the seal must be placed on each plan drawing and on the cover of the narrative.

7. EFFLUENT LIMITATIONS

- a. 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.
- b. Activities covered under this permit must comply with applicable effluent limitations established in 25 Pa. Code Chapters 92a, 93, 96, 102, and 105 and any applicable federal law or regulation.

8. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

- a. The permittee and co-permittee(s) must ensure that visual site inspections are conducted weekly, and after each measurable stormwater event throughout the duration of construction and until the receipt and acknowledgement of the NOT by the Department or conservation district. Inspections should occur within 24 hours of measurable stormwater events. The visual site inspections and reports shall be completed by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that E&S BMPs are properly constructed and maintained to effectively minimize pollution to the waters of this Commonwealth. If the earth disturbance activities authorized by this permit at any time are found to create conditions that cause or threaten to cause pollution to waters of the Commonwealth, the permittee(s) shall immediately implement remedial measures to correct the conditions.
- b. The permittee and co-permittee(s) shall prepare a long-term operation and maintenance schedule which provides for inspection of PCSM BMPs, including repair, replacement, or other routine maintenance of the PSCM BMPs to ensure proper function and operation. The program must provide for completion of a written

report documenting each inspection and all BMP repair and maintenance activities and how access to the PCSM BMPs will be provided.

- c. A licensed professional or a designee shall be present onsite and responsible for the inspection of critical stages of implementation of the authorized PCSM plan. The critical stages may include the installation of underground treatment BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by the Department or the conservation district.
- d. The Department or conservation district may require additional monitoring where an increased risk of potential water pollution is present, or water pollution is suspected of occurring from an earth disturbance activity subject to this permit. The permittee(s) shall commence such monitoring upon notification from the Department or the conservation district.
- e. Where E&S, PCSM or PPC BMPs are found to be inoperative or ineffective during an inspection, the permittee and co-permittee(s) shall contact the Department or conservation district by phone or in person within 24 hours,, followed by the submission to the Department for approval of a written report within 5 days of the initial contact. These 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;
 - (4) Purposed measures to correct the noncompliant conditions; and
 - (5) The date or schedule of dates to implement those purposed measures.

Additionally, when BMPs are found to be inoperative or ineffective, the licensed professional shall be consulted to ensure BMP adequacy, as designed.

9. RECORD KEEPING

- a. 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 and maintenance records) and records of data used to complete the Notice of Intent for this permit, for a period of three years from the date of the termination of coverage under this permit. This period of retention must be extended during the course of any unresolved compliance, enforcement or litigation regarding discharges exceeding effluent limitations by the permittee or when requested by the Department or conservation district.
- b. Visual inspection monitoring results shall be submitted to the Department or conservation district upon request.

10. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT

- a. The permittee(s) must comply with all terms and conditions of this permit. Any permit non-compliance constitutes a violation of The Clean Streams Law, Oil and Gas Act, 25 Pa Code Chapters 78, 93 and 102, and is grounds for enforcement action or permit suspension; revocation, modification and reissuance, or denial of a permit. The permittee(s) may be subject to criminal and/or civil penalties for violations of the terms and conditions of this permit under Sections 602 and 605 of The Clean Streams Law, 35 P.S. §§ 691.602 and 691.605 and Sections 503, 505, 506 and 507 of the Oil and Gas Act, P.S. §§ 601.503, 601.505, 601.506 and 601.507.

11. DUTY TO PROVIDE INFORMATION

- a. The permittee or co-permittee(s) shall furnish to the Department or conservation district any information that the Department or conservation district may request to determine whether cause exists for modifying, revoking, reissuing, or terminating this permit or coverage authorized under this permit or to determine compliance with this permit.

- b. The permittee or co-permittee shall furnish, upon request, to the Department or conservation district copies of records required to be kept by this permit.
- c. 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/Site Restoration Plan, or PPC Plan or in any other report to the Department or conservation district, the permittee or co-permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information.
- d. The permittee or co-permittee shall give seven (7) calendar days advance notice to the Department or conservation district by either telephone or certified mail of the intent to commence earth disturbance activities. Notification may occur prior to receipt of coverage under this permit.

12. SIGNATORY REQUIREMENTS

- a. Documents required, submitted, or maintained under this permit shall be submitted with original signatures and be signed in accordance with the following:
 - (1) NOIs, Transferee/Co-permittee Form, and NOTs.
 - (a) Corporations: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - (b) Partnerships or sole proprietorships: a general partner or the proprietor, respectively; or
 - (c) Municipalities, State, Federal, or other public agencies: either a principal executive officer or ranking elected official such as: (1) the chief executive officer or secretary of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
 - (2) All reports, plans, documents, and other information required by the permit or requested by the Department or 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 conservation district within 30 days of the change.

13. TRANSFER OF OWNERSHIP OR CONTROL

- a. This permit is not transferable to any person except after notice and acknowledgment by the Department or conservation district.
 - (1) 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 conservation district using the form entitled "Application for Transfer of the Erosion and Sediment Control General Permit" of such pending change at least 30 days prior to the change in ownership or control. If the permittee undergoes a name change, the permit must be reissued under the new name. The permittee, however, is not required to submit this form. Instead, permittee must submit a copy of its Department of State filings to the Department.
 - (2) 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.
 - (3) After receipt of an administratively complete and acceptable transfer application form, the Department or conservation district shall notify the existing permittee and the new owner or operator of its decision concerning authorization of the transfer of ownership or control.
 - (4) All relevant conditions of any prior Departmental permits, decrees or orders issued to the permittee(s) or their predecessor shall be continued in full force and effect unless explicitly superseded by this permit. The provisions of this permit shall apply to the permittee's successors, lessees, heirs, and

assigns. Permit ownership and/or responsibilities may be transferred or shared after written notice to, and upon authorization from the Department or conservation district. The notice shall be provided to the Department or conservation district at least 30 days prior to the effective date of new ownership or permit responsibility. The transfer does not need to be published in the PA Bulletin.

- b. For purposes of this permit, operators shall include general contractors. If, prior to conducting oil and gas activities, the owner is the permittee and an operator/general contractor is later identified to become a co-permittee, the owner shall:
 - (1) Notify the Department or conservation district by submitting an administratively complete and acceptable Application for Co-Permittee Addition to the Erosion and Sediment Control General Permit (ESCGP-2) Authorization; and
 - (2) Ensure that monitoring reports and any other information requested under this permit shall reflect all changes to the permittee and the co-permittee name.
- c. After receipt of the documentation described in (b) above, the permit will be considered modified by the Department or conservation district. For the purposes of this permit, this modification is considered to be a minor permit modification.
- d. Upon authorization of a change in ownership or control, the existing permittee shall provide a copy of the permit and authorized plans to the new owner and/or co-permittee.

14. OPERATING CONDITIONS

- a. 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.
- b. 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/ Site Restoration Plan, and PPC Plan.
- d. 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 BMP(s). These actions should be undertaken to protect, maintain, reclaim and restore waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause of source of the reduction, loss or failure is within or beyond the control of the permittee or co-permittee.
- e. All building materials and wastes must be removed from the site and recycled or disposed in accordance with the Department's Regulations at 25 Pa. Code Chapters §78, §260, §271, and §287. Procedures which ensure that the proper disposal or recycling of materials associated with or from the project site will be undertaken in an environmentally safe manner and in accordance with Federal and State law and regulations shall be implemented. No waste or material shall be disposed, buried, dumped, or discharged at the site unless it is in accordance with Federal and State law and regulations.
- f. The permittee(s) and co-permittee(s) shall contact the plan preparer for clarification of any requirements contained in the Erosion and Sediment Control Plan, Post Construction Stormwater Management Plan, Pollution Prevention and Contingency Plan, or other documents related to this permit. If additional clarification is necessary the permittee or co-permittee shall contact the Department or conservation district.
- g. Discharges of material other than stormwater runoff must be in compliance with an NPDES 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.
- h. Where infiltration BMPs are being utilized, the permittee and co permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration BMPs are compromised, additional soil testing must be performed to verify that the BMP will perform as planned.
- i. Upon final completion of an earth disturbance activity or any stage or phase of an activity the project site shall be immediately stabilized in accordance with the requirements of §102.22(a). 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.

- j. Upon temporary cessation of the earth disturbance activity, or completion of any stage or phase of an activity where the cessation of earth disturbance will exceed 4 days the project site shall be immediately stabilized in accordance with the requirements of §102.22(a). 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.

15. COMPLIANCE RESPONSIBILITIES

- a. The permittee and co-permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Pennsylvania Clean Streams Law and is grounds for enforcement action; for permit termination, revocation, reissuance, or modification; or for denial of a permit or permit renewal.
- b. 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. Sections 691.602 and 691.605.
- c. The permittee 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. 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.
- e. 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.
- f. 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, the permittee and co-permittee shall allow the Director of the Department and/or an authorized representative of 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 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.
- g. Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years or by both. In addition, criminal sanctions are set forth for false swearing and unsworn falsification at 18 Pa. C.S. §§4903 4904.

16. EROSION AND SEDIMENT CONTROL PLANS

- a. An E&S Plan shall be prepared 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, including any major modifications, must be submitted to the Department or conservation district for review and authorization. The BMPs shall be designed and implemented to minimize the potential for accelerated

erosion and sedimentation in order to protect, maintain, reclaim, and restore water quality and existing and designated uses, in accordance with 25 Pa. Code § 102.4(b). Best Management Practices for oil and gas activities are listed in the Department's Erosion and Sediment Pollution Control Manual, No. 363-2134-008, the Water Quality Antidegradation Guidance No. 391-0300-002 and the Stormwater Best Management Practices Manual No. 363-0300-002. These documents are available from the Department or conservation district or can be downloaded from the Department's Web site at www.depweb.state.pa.us. The permittee(s) may use BMPs that are not identified in the foregoing manuals if the permittee(s) demonstrates to the Department or conservation district's satisfaction that the proposed BMPs achieve equivalent or superior environmental protection standards. E&S Plans and BMPs, and revisions thereto, which meet the requirements of 25 Pa. Code Chapters 78, 93, 96, and 102, are conditions of this permit and are incorporated by reference.

- b. The staging of earth disturbance activities and maintenance requirements contained in the authorized E&S Plan must be followed.
- c. Upon the installation or stabilization of all perimeter sediment control BMPs and at least 3 days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to the Department or conservation district.

17. PREPAREDNESS, PREVENTION AND CONTINGENCY (PPC) PLANS

Under § 102. 5(l), a person shall prepare and implement a PPC Plan when storing, using or transporting materials including: fuels, chemicals, solvents, pesticides, fertilizers, lime, petrochemicals, wastewater, wash water, core drilling wastewater, cement, sanitary wastes, solid wastes or hazardous materials onto, on or from the project site during earth disturbance activities. In accordance with 25 PA Code § 78.55, operators of oil and gas wells are required to prepare and implement a control and disposal plan. Operators may meet this regulatory requirement by developing and implementing a site specific PPC Plan. The PPC Plan shall be developed in accordance with Department regulations. The PPC Plan should identify areas which may include, but are not limited to, waste management areas, raw material storage areas, fuel storage areas, temporary and permanent spoils storage areas, maintenance areas, and any other areas that may have the potential to cause noncompliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, etc. BMPs shall be developed and implemented for each identified area. The PPC Plan shall be made available upon the Department's or conservation districts' request.

18. POSTCONSTRUCTION STORMWATER MANAGEMENT PLANS\SITE RESTORATION PLANS

- a. A PCSM Plan shall be prepared 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 §102.8 of the Chapter 102 regulations. 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 conservation district or can be downloaded from the Department's Web site at www.depweb.state.pa.us. Each PCSM Plan, including any major modifications, must be submitted to the Department or conservation district for review and authorization. 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, biological properties and existing and designated uses of the waters of this Commonwealth.
- b. PSCM Plans shall be consistent with any Department authorized Act 167 Stormwater Management Plan which covers the area where the project is proposed.
- c. A licensed professional or a designee shall be present onsite and be responsible for oversight of critical stages of implementation of the authorized PCSM plan. The licensed professional will be responsible to provide a final certification, pursuant to 102.8(l) along with the required NOT and record drawings, indicating that the project site was constructed in accordance with the authorized or modified PCSM plan.
- d. The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from oil and gas activities permitted in accordance with Chapter 78; 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 102.8(b), (c), (e), (f), (h), (i) and (l), and when applicable, (m).

19. 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 conservation district. The permittee shall invite the Department or conservation district to attend the preconstruction meeting and provide at least 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 and PCSM plans and critical stages of implementation of the authorized PCSM plan, shall attend the preconstruction meeting. Where notice of a preconstruction meeting has been provided to the Department and the preconstruction meeting is held pursuant to § 102.5(e), but the Department's representations do not attend the scheduled pre-construction meeting, the earth disturbance activities authorized under the permit may proceed.

20. LONG-TERM OPERATION AND MAINTENANCE

- a. The permittee and co-permittee shall be responsible for long-term operation and maintenance of PCSM BMPs unless a different person is identified in the NOT and 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 BMP is a covenant that runs with the lands that is binding upon and enforceable by subsequent grantees, and provide proof of filing with the NOT under Section 102.7(b)(5).
- 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 Section 102.8(m)(3).
- d. The person responsible for performing long-term operation and maintenance may enter into an 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.

21. VOLUNTARY RIPARIAN FOREST BUFFERS

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

22. MANDATORY RIPARIAN BUFFERS

Permittees or co-permittees must protect, convert or establish a new riparian forest buffer that meets the requirements of 25 Pa. Code § 102.14 unless otherwise exempted or waived under §§ 102.14(a) or 102.14(d).

23. TERMINATION OF COVERAGE

- a. Upon permanent stabilization of earth disturbance activity under § 102.22(a)(2) (relating to permanent stabilization) and installation of BMPs in accordance with the authorized plan prepared and implemented in accordance with § 102.4 and 102.8 (related to erosion and sediment control requirements; and PCSM requirements), the permittee and/or co-permittee shall submit a NOT to the Department or conservation district. The NOT must include:
 - (1) The facility name, address and location,
 - (2) The operator name and address,
 - (3) The permit number,

- (4) The reason for the permit termination,
- (5) Identification of the persons who have agreed to and will be responsible for the long term operation and maintenance of PCSM BMPs.

Until the permittee or co-permittee has received written authorization of the NOT, the permittee and 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. The Department or conservation district will conduct a follow up inspection and approve or deny the NOT within 30 days of receipt unless field conditions such as snow cover prevent inspection.

- b. 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 authorized PCSM plan, all authorized plan changes, and accepted construction practices."

The permittee shall retain a copy of the record drawings as part of the authorized PCSM plan. The permittee shall also provide a copy of the record drawings as part of the authorized 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, conservation district and municipality.