



**AUTHORIZATION OF COVERAGE UNDER THE EROSION AND SEDIMENT CONTROL  
GENERAL PERMIT (ESCGP-3) FOR EARTH DISTURBANCE ASSOCIATED WITH OIL  
AND GAS EXPLORATION, PRODUCTION, PROCESSING, OR TREATMENT  
OPERATIONS OR TRANSMISSION FACILITIES**

**AUTHORIZATION NUMBER:** ESG830021001

Project Name & Location

FM120 Insertion Project

Shippen Township; Cameron County

City of St. Marys and Jones Township; Elk County

Sergeant Township, McKean County

Permittee Name & Address

National Fuel Gas Supply Corporation

1100 State Street

Erie, PA 16501

In compliance with the provisions of Pennsylvania's Clean Streams Law, as amended, 35 P.S. §§ 691.1 *et seq.*, 58 Pa.C.S. §§ 3201-3274 (2012 Oil and Gas Act) and regulations promulgated thereto, including 25 Pa Code Chapters 78, 78a, 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 in the below named watershed(s):

Warner Brook (HQ-CWF), East Branch Clarion River (HQ-CWF), Red Mill Brook (CWF), Wellendorf Branch (HQ-CWF), North and South Fork Straight Creek (HQ-CWF), Straight Creek (HQ-CWF), Naval Hollow (HQ-CWF) Windfall Run (HQ-CWF), North Fork West Creek (HQ-CWF) Transfer Hollow (HQ-CWF), Clear Creek (EV) Boy Scout Hollow (EV), Little Clear Creek (EV), Seeley Hollow (HQ-CWF), Warner Hollow (HQ-CWF), Reed Hollow (HQ-CWF), West Creek (HQ-CWF), Big Run (HQ-CWF), Sugar Bush Hollow (EV)

subject to the Department's enclosed ESCGP-3 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) associated with the project indicated above and in compliance with all representations set forth in the NOI 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 coverage or the date other necessary permits and authorizations are obtained; whichever occurs later. This authorization of coverage is valid for a period of five years when activities are conducted pursuant to such terms and conditions. The Department may terminate this authorization of coverage prior to the expiration date upon notice. No condition of this permit shall release the permittee from any responsibility or requirement under Pennsylvania's statutes or regulations or local ordinances.

AUTHORIZATION DATE: February 28, 2022

EXPIRATION DATE: February 27, 2027

AUTHORIZED BY: 

TITLE: Director, Regional Permit Coordination Office

**EROSION AND SEDIMENT CONTROL GENERAL PERMIT FOR EARTH DISTURBANCE ASSOCIATED WITH OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, OR TREATMENT OPERATIONS OR TRANSMISSION FACILITIES (ESCGP-3)**

This permit applies to oil and gas activities that involve 5 acres or more of earth disturbance over the life of the project. For projects involving construction of a well site, a well permit must be obtained prior to commencing earth disturbance activity.

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

1. AUTHORITY

- a. ESCGP-3 is authorized by the Clean Streams Law, 35 P.S. §§ 691.1 *et seq.*, 58 Pa.C.S. §§ 3201-3274 (2012 Oil and Gas Act) and regulations promulgated thereto, including, 25 Pa Code Chapters 78, 78a, 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,
- 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 are 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 regulates 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 the potential to cause significant adverse environmental impact. ESCGP-3 is an Erosion and Sediment Control (E&S) Permit under Chapter 102 and is issued pursuant to § 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-3.

2. DEFINITIONS

The following terms are defined for the purposes of ESCGP-3:

**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. § 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 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 the Federal Emergency Management Agency (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/SR Plan – Post Construction Stormwater Management Plan/Site Restoration 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 – Preparedness, Prevention and Contingency 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 activities –

- (i) Earth disturbance activities within the existing road cross-section or railroad right-of-way including the following:
  - (A) Shaping or re-stabilizing unpaved roads.
  - (B) Shoulder grading.
  - (C) Slope Stabilization.
  - (D) Cutting of existing cut slopes.
  - (E) Inlet and end wall 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 earth disturbance 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.

Well site – The area occupied by the equipment or facilities necessary for or incidental to the drilling, production or plugging of a well.

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-3 applies to oil and gas activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project. ESCGP-3 applies only to activities within the Commonwealth of Pennsylvania. ESCGP-3 does not obviate the need to obtain other Federal, State, or local authorizations required by law. Persons subject to and operating under ESCGP-3 may not commence the earth disturbance activities until receipt of written acknowledgement of coverage under ESCGP-3 from the Department. For projects involving construction of a well site, a well permit must be obtained prior to commencing earth disturbance activity.
- b. ESCGP-3 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.
- (7) Discharges to surface water 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 waters.

#### 4. 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 general 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 for an authorization of coverage under this general 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. Authorization of coverage under ESCGP-3 modification or revocation will be conducted according to 25 Pa. Code Chapter 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 or PCSM/SR 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 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 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 and conservation districts will review NOIs, including E&S Plans and PCSM/SR 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 5 acres, or an earth disturbance on any portion, part, or during any stage over the life of the project, who request 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 permit must include E&S and PCSM/SR Plans developed in accordance with the requirements of 25 Pa. Code Chapter 102.

- c. The Department offers an optional expedited review process to persons seeking coverage under ESCGP-3. NOIs for coverage under ESCGP-3 submitted for a project that meets the criteria for expedited review and qualifies for permit coverage will be provided with an acknowledgement of coverage under the ESCGP-3 within 14 business days from the submission of a complete and accurate NOI. With respect to review of NOIs for coverage under ESCGP-3 for oil and gas activities that are not under the expedited process, the Department's objective is to complete its review of complete submissions within 60 calendar days. A person proposing oil and gas activities under ESCGP-3 must obtain written authorization from the Department prior to commencing the earth disturbance activity.
- d. The Department offers an optional phased permit process to persons seeking coverage under ESCGP-3. Before initiating any earth disturbance activities on each subsequent phase, the permittee must submit to the Department a new complete NOI with the Phased option checked, including the information listed on the NOI Administrative Completeness Checklist, Document Number 8000-PM-OOGM0006, for that phase, for review and authorization. The Department will publish a notice in the *Pennsylvania Bulletin* for each subsequent phase.
- e. Major modifications to the authorized E&S Plan or PCSM/SR Plan involving new or additional earth disturbance activity require prior authorization by the Department or conservation district and the submittal of a new NOI. All minor modifications to the E&S Plan or PCSM/SR Plan shall be noted on the plan that is available at the site and initialed by the Department or conservation district staff. Projects with electronic ESCGP approvals will be tracked through the ePermit system as well. Minor changes to the E&S Plan or the PCSM/SR 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.
- f. Operators conducting oil and gas activities must implement and maintain E&S BMPs and PCSM/SR BMPs and other pollution prevention measures required by this permit to minimize accelerated erosion and sedimentation and to manage stormwater before, during, and after construction activities.
- g. The NOI must be filed in accordance with the detailed instructions specified in the "Instructions For A Notice Of Intent (NOI) Authorization For Coverage Under The Erosion And Sediment Control General Permit (ESCGP-3) For Earth Disturbance Associated With Oil And Gas Exploration, Production, Processing, Or Treatment Operations Or Transmission Facilities," Document Number 8000-PM-OOGM0006.
- h. NOIs shall include proof of consultation (i.e. receipt available upon completion of PNHP review) with the Pennsylvania Natural Heritage Program (PNHP) regarding the presence of State or Federal threatened or endangered species on the project site. The receipt must be submitted in accordance with the Department's current *Policy for Pennsylvania Natural Heritage Program (PNHP) Coordination During Permit Review and Evaluation* (021-0200-001), available on the Department's website. 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 <https://conservationexplorer.dcnr.pa.gov/>.
- i. If hydric soils including soil map units with hydric inclusions or 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. All wetlands identified must be included in the E&S Plan and PCSM/SR Plan. Special precautions must be taken to protect wetlands and other water resources identified in the NOI, plans, and other supporting documents. Wetland identification and delineation should be conducted in accordance with 25 Pa. Code § 105.451 and applicable regional US Army Corps of Engineers guidance.
- j. Persons requesting a renewal of coverage under ESCGP-3 must submit an administratively complete and acceptable NOI to the Department or conservation district, at least 60 days prior to the expiration date of the authorization of 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 authorization 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 authorization of coverage.

- k. No condition of this permit shall release any person from any responsibility or requirements under applicable Federal or State law or regulations or local ordinances.
- 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 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.
- m. The expedited review process will not be available to persons seeking an ESCGP-3 for the following activities:
  - (1) Projects where any part is located in the watershed of a surface water with an existing or designated use of exceptional value or high quality pursuant to Chapter 93 (relating to water quality standards). Projects where any part is located in an exceptional value wetland in accordance with 25 Pa Code § 105.17. Projects where any part is located in the watershed of an impaired surface water where the cause of impairment is identified as siltation.
  - (2) Projects in which the well pad will be constructed in or on a floodplain.
  - (3) Projects involving earth disturbance activities on lands that are known to be currently contaminated by the release of regulated substances as defined in Section 103 of The Pennsylvania Land Recycling and Remediation Standards Act (Act 2) (35 P.S. § 6026.103).
  - (4) Projects located where naturally occurring geologic formations or soil conditions may provide hazards to the project or surrounding environment or have the potential to cause or contribute to pollution when disturbed, including, but not limited to, land sliding, steep slopes, karst/sinkhole formation, acid producing rock (including coal seams, where earth disturbance activities have the potential to expose acid producing rock or infiltrate stormwater runoff into acid producing rock), radioactive or arsenic bearing formations, surface mines (existing, abandoned and/or reclaimed), deep mines (active, abandoned where the earth disturbance activities have the potential to encounter a mine void), mine spoil dump area, abandoned mine drainage, or abandoned mine drainage treatment systems.
  - (5) Projects submitted by an applicant who has any existing unresolved non-compliance issues with the Department.
  - (6) Projects that are part of a transmission pipeline or associated facilities or are regulated by the Federal Energy Regulatory Commission (FERC).
- n. NOIs for coverage under this permit which are submitted through the expedited review process shall be prepared and certified by a licensed professional who has completed up-to-date training provided by the Department's Office of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities, including trainings provided on the Department's website. Plans submitted through the expedited review process may be prepared by designated individuals under the responsible charge of the licensed professional who certifies the plans and drawings. 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 plan narrative.
- o. NOIs for coverage under this permit for projects ineligible for expedited review, described in (m) 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 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, as well as any applicable federal law or regulation.



## 8. TRAINING

- a. Prior to the commencement of earth disturbance activities, the permittee must provide training to the following personnel regarding the requirements of this permit and their specific responsibilities with respect to those requirements:
  - (1) Personnel responsible for the installation, maintenance, and/or repair of E&S and PCSM BMPs and the PPC plan;
  - (2) Personnel responsible for the application and storage of treatment chemicals (if applicable);
  - (3) Personnel responsible for conducting inspections; and
  - (4) Personnel responsible for taking corrective actions.
- b. The permittee is responsible for ensuring that all activities on the site comply with the requirements of this permit. The permittee is not required to provide or document formal training for subcontractors or other service providers, but must otherwise ensure that personnel of subcontractors or other service providers understand any requirements of this permit that may be affected by the work they are subcontracted to perform.
- c. At a minimum, the permittee must provide training to personnel on the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):
  - (1) The permit deadlines associated with installation, maintenance, and removal of stormwater controls and with stabilization;
  - (2) The location of all stormwater controls on the site required by this permit and how they are to be maintained;
  - (3) The proper procedures to follow with implementation of the PPC Plan; and
  - (4) When and how to conduct inspections, record applicable findings, and take corrective actions.
- d. A training log must be kept onsite and made available upon request from the Department or conservation district staff.
- e. All personnel must have access at all times during earth disturbance activities to an electronic or paper copy of this permit, the approved copies of the E&S and PCSM Plans, as well as PPC Plans, and other relevant documents or information that must be kept with these plans.

## 9. PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION (PHMC) GENERAL CONDITIONS

- a. If the permittee encounters archaeological specimens or historic resources, as defined by 37 Pa.C.S. § 103, during earth disturbance activities, the permittee shall immediately cease earth disturbance activities and shall immediately notify the Department and shall concurrently notify the Pennsylvania Historical and Museum Commission (PHMC) at P.O. Box 1026, Harrisburg, PA 17120-1026, telephone 717.783.8947.
- b. When conducting earth disturbance activities, the permittee shall protect archaeological specimens and historic resources in accordance with applicable Federal and State laws.

## 10. THREATENED AND ENDANGERED SPECIES PROTECTION

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

## 11. MONITORING, INSPECTION, AND REPORTING REQUIREMENTS

- a. The permittee must ensure that visual site inspections are conducted weekly, and after each 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 each stormwater event. 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 shall immediately implement remedial measures to correct the conditions.
- b. The permittee 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 PCSM 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 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 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), the permittee shall, within 24 hours, contact the Department or the 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
  - (4) The date or schedule of dates, and identifying remedies for correcting noncompliance conditions.

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

## 12. RECORD KEEPING

- a. The permittee 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 reports and monitoring records shall be available at the project site for review and inspection by the Department or conservation district during all stages of earth disturbance activities.

## 13. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT

The permittee must comply with all terms and conditions of this permit. Any permit non-compliance constitutes a violation of The Clean Streams Law, the 2012 Oil and Gas Act, 25 Pa Code Chapters 78 (for conventional wells only), 78a (for unconventional wells only), 93 and 102, and is grounds for enforcement action or suspension of authorization; revocation, modification and reissuance, or denial of an authorization of coverage under this permit. The permittee 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 §§ 503, 505, 506 and 507 of the 2012 Oil and Gas Act, 58 Pa.C.S. §§ 3253, 3255, 3256, 3257.

#### 14. DUTY TO PROVIDE INFORMATION

- a. The permittee 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 shall furnish, upon request, to the Department or conservation district copies of records required to be kept by this permit.
- c. When the permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the NOI, E&S Plan, PCSM/SR Plan, or PPC Plan or in any other report to the Department or conservation district, the permittee shall within 24 hours of becoming aware of the deficiency submit or correct such facts or information.
- d. The permittee shall give seven (7) calendar days advance notice to the Department or conservation district program or office that issued the authorization of coverage under ESCGP-3 by telephone, certified mail or electronic means of the intent to commence earth disturbance activities. The notification must include the project type, target date for earth disturbance, ESCGP permit number, Site name, Township, County and point of contact for the operator and notification may occur prior to receipt of coverage under this permit.

#### 15. SIGNATORY REQUIREMENTS

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

- a. NOIs, Transferee/Co-permittee Form, and NOTs.
  - (1) 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;
  - (2) Partnerships or sole proprietorships: a general partner or the proprietor, respectively;
  - (3) 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 the U.S. Environmental Protection Agency).
- b. 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.
- c. If there is a change in the duly authorized representative of the permittee, the permittee shall notify the Department or conservation district within 30 days of the change.

#### 16. 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 shall notify the Department or conservation district using the form entitled "Application for Transfer of the Erosion and Sediment Control General Permit" (Transfer Application Form), Document Number 8000-PM-OOGM0012 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 the Transfer Application Form. Instead, the 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 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 *Pennsylvania 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-3) 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.

#### 17. 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 is responsible for the design, installation, operation and maintenance of the BMPs identified in the E&S Plan, PCSM/SR Plan, and PPC Plan.
- c. Upon reduction, loss, or failure of any BMP, the 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 discharged to or pollution of the waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause of the source of reduction, loss or failure is within or beyond the control of the permittee.
- d. 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, 78a, 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.
- e. The permittee shall contact the plan preparer for clarification of any requirements contained in the E&S Plan, PCSM/SR Plan, PPC Plan, or other documents related to this permit. If additional clarification is necessary, the permittee shall contact the Department or conservation district.
- f. Discharges of material other than stormwater runoff must be in compliance with an National Pollutant Discharge Elimination System (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 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.

- g. Where infiltration BMPs are being utilized, the 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.
- h. 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 25 Pa. Code § 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.
- i. 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.

#### 18. COMPLIANCE RESPONSIBILITIES

- a. The permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Pennsylvania Clean Streams Law, the 2012 Oil and Gas Act and 25 Pa. Code Chapters 78 (for conventional wells only), 78a (for unconventional wells only), 93 and 102 and is grounds for enforcement action; for termination of authorization, revocation, reissuance, or modification; or for denial of an authorization of coverage under this permit or renewal of coverage.
- b. Any person who violates a permit condition, fails to take corrective action to abate violations or falsifies a 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 the Clean Streams Law, 35 P.S. §§ 691.602 and 691.605.
- c. The 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 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 shall allow 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 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.

#### 19. 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 eLibrary website at [www.dep.pa.gov](http://www.dep.pa.gov) by entering the document number in the search box. The permittee may use BMPs that are not identified in the foregoing manuals if the permittee 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, 78a, 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. After installation or stabilization of all perimeter sediment control BMPs, the Department or conservation district program or office that issued authorization of coverage under ESCGP-3 shall be notified at least 3 days prior to proceeding with the bulk earth disturbance activities. Bulk earth disturbance activities are defined as any earth disturbance for construction purposes other than the minimum amount of disturbance required for installation of perimeter sediment control BMPs. Notification to the Department or conservation district shall be made by telephone, certified mail or electronic means and include the project type, target date for bulk earth disturbance, ESCGP authorization number, Site name, Township, County and point of contact for the operator.

## 20. PREPAREDNESS, PREVENTION AND CONTINGENCY (PPC) PLANS

- a. Under 25 Pa. Code § 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.
- b. For persons conducting oil and gas activities associated with unconventional well development in accordance with Chapter 78a, PPC Plans must comply with 25 Pa. Code § 78a.55. Under 25 Pa. Code § 78a.55(a), permittees conducting unconventional oil and gas activities shall prepare and implement a site-specific PPC Plan according to 25 Pa. Code §§ 91.34 and 102.5(l). Under 25 Pa. Code § 78a.55(b), in addition to the requirements in § 78a.55(a), an unconventional well operator shall prepare and develop a site-specific PPC Plan prior to storing, using, or generating a regulated substance on an unconventional well site from the drilling, alteration, production, plugging or other activities associated with a gas well or transporting those regulated substances to, on or from an unconventional well site. Under § 78a.55(f), copies of an unconventional well operator's PPC Plan shall be provided to the Department, the Fish and Boat Commission or the landowner upon request and shall be available at the site during drilling and completion activities for review.
- c. Under 25 Pa. Code § 78.55(a), conventional well operators are required to prepare and implement a control and disposal plan. Conventional operators may meet this regulatory requirement by developing and implementing a site-specific PPC Plan. This PPC Plan shall be developed in accordance with Department regulations. This 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. This PPC Plan shall be made available upon the Department's or conservation districts' request.

## 21. 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 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 conservation district or can be downloaded from the Department's eLibrary website. 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 net change in 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. PCSM Plans shall be consistent with any current 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. In accordance with 25 Pa. Code § 102.8(n), 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 Chapters 78 and 78a, 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). For unconventional well sites, in accordance with 25 Pa. Code § 78a.65(d), disturbed areas associated with well sites that are not included in a restoration plan, and other remaining impervious surfaces, must comply with all requirements in Chapter 102 (relating to erosion and sediment control). For these projects, the PCSM Plan provisions in 25 Pa. Code § 102.8(n) apply only to the portions of the restoration plan that provide for restoration of disturbed areas to meadow in good condition or better or otherwise incorporate ABACT or nondischarge PCSM BMPs.

## 22. 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 program or office that issued the authorization of coverage under ESCGP-3 by telephone, certified mail or electronic means to attend the preconstruction meeting and provide at least 7 days notice of the preconstruction meeting to all invited attendees. The notification must include the project type, target date for earth disturbance, ESCGP number, Site name, Township, County and point of contact for the operator. 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 representatives do not attend the scheduled pre-construction meeting, the earth disturbance activities authorized under the permit may proceed.

## 23. LONG-TERM OPERATION AND MAINTENANCE FOR PROJECTS THAT DO NOT REQUIRE A WELL PERMIT

- a. For projects that do not require a well permit under the 2012 Oil and Gas Act, the permittee shall be responsible for long-term operation and maintenance of PCSM/SR BMPs unless a different person is identified in the NOT and has agreed to long-term operation and maintenance of PCSM/SR BMPs.
- b. For any property containing a PCSM/SR BMP, the permittee shall record an instrument with the recorder of deeds which will assure disclosure of the PCSM/SR BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM/SR BMP, provide for necessary access related to long-term operation and maintenance for PCSM/SR BMPs and provide notice that the responsibility for long-term operation and maintenance of the PCSM/SR 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 § 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/SR BMP occurs. Upon transfer of the Commonwealth-owned property containing the PCSM/SR BMP, the deed must comply with § 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/SR BMPs or to perform long-term operation and maintenance and provide notice thereof to the Department.
- e. A permittee that fails to transfer long-term operation and maintenance of the PCSM/SR 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/SR BMPs located on the property.

24. LONG-TERM OPERATION AND MAINTENANCE FOR WELL SITE CONSTRUCTION REQUIRING A WELL PERMIT

- a. For projects requiring a well permit under the 2012 Oil and Gas Act (e.g., well site preparation and construction), the permittee must restore the well site within 9 months after the completion of drilling in accordance with the 2012 Oil and Gas Act and Chapters 78 and 78a.
- b. For Commonwealth-owned property, a covenant that runs with the land is not required until the transfer of the land containing a PCSM/SR BMP occurs. Upon transfer of the Commonwealth-owned property containing the PCSM/SR BMP, the deed must comply with § 102.8(m)(3).

c. Post-Drilling Requirements:

- (1) The permittee must file a restoration report for post-drilling restoration with the Department within 60 days after post-drilling restoration in accordance with § 78.65(3) and § 78a.65(e).
- (2) For unconventional well sites, written consent of the landowner satisfies the restoration requirements provided the permittee develops and implements a site restoration plan that complies with § 78a.65(a) and 78a.65(b)(2)-(7) and all post construction stormwater management (PCSM) requirements in 25 Pa. Code Chapter 102. The permittee or landowner may use the Post-Drilling Landowner Waiver of Well Site Restoration Form (Document No. 8000-FM-OOGM0149U) to make a request to the Department to waive the requirement to restore a well site to approximate original conditions. The permittee must certify that they are responsible for long-term operation and maintenance of PCSM BMPs remaining on the well site in accordance with the PCSM/SR Plan included in the Department-approved ESCGP.

d. Post Plugging Requirements:

- (1) The permittee is required to submit a restoration report for post-plugging restoration with the Department within 60 days of post-plugging restoration in accordance with § 78.65(3) and § 78a.65(f).
- (2) For projects requiring an unconventional well permit, a surface landowner may request to waive the requirement to restore the well site to approximate original conditions using a Post-Plugging Landowner Waiver of Well Site Restoration form (Document No. 8000-FM-OOGM0155U) in accordance with § 78a.65(g). In this form, the surface landowner may consent that the permittee not restore the land surface to approximate original conditions provided the permittee develops and implements a site restoration plan that complies with § 78a.65(a) and 78a.65(b)(2)-(7) and the PCSM requirements in Chapter 102 with the understanding that the surface landowner will be liable for violations that exist on the property after the wells have been plugged. All PCSM BMPs remaining on site must be included in the Post-Plugging Well Site Restoration Report, (Document No. 8000-FM-OOGM0075U). A copy of the Department-approved PCSM plan must be provided to the landowner if the Post-Plugging Landowner Waiver of Well Site Restoration form (Document No. 8000-FM-OOGM0155U) is attached with this form.

If the surface landowner provides consent, the surface landowner must record an instrument with the recorder of deeds which will assure disclosure of the PCSM/SR BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM/SR BMP, provide for necessary access related to long-term operation and maintenance for PCSM/SR BMPs and provide notice that the responsibility for long-term operation and maintenance of the PCSM/SR 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 § 102.7(b)(5).

25. 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.

26. MANDATORY RIPARIAN BUFFERS

The permittee 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).



## 27. 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 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, and
  - (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 has received written authorization of the NOT, the 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 or Site Restoration 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. The permittee shall also provide copies of both the record drawings and the long-term operation and maintenance plan to the Department, conservation district and municipality.