

## Use of an Individual Erosion & Sediment (E&S) Permit Application in place of an E&S Control General Permit (ESCGP) Notice of Intent (NOI)

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The Pennsylvania Department of Environmental Protection's (DEP), Regional Permit Coordination Office (RPCO) is providing this document to help with consistency and understanding for projects that may require an Individual E&S control permit in place of an ESCGP NOI.

**NOTE:** It is recommended that prospective applicants reach out to RPCO prior to submitting an application or NOI ([RA-EPREGIONALPERMIT@pa.gov](mailto:RA-EPREGIONALPERMIT@pa.gov) or visit [www.dep.pa.gov/RPCO](http://www.dep.pa.gov/RPCO)).

### A. General/Overarching Factors:

- **Administrative Requirements:** All final actions and applications for E&S permits regulated by the Federal Energy Regulatory Commission (FERC) need to be appropriately noticed in the Pennsylvania Bulletin and may require other administrative steps.
- **Project Complexity:** By their nature, complex projects may require project-specific considerations which need to be reflected in special conditions which cannot be facilitated in a general permit. Complexities can be due to many factors, including but not limited to overall size and heightened risk factors such as: soil erodibility, geologic hazards, construction methodology, potential impact to nearby resources, etc. Since DEP cannot add special conditions to a general permit, the logical solution is to require an Individual E&S Permit Application.

### B. Specific Factors that the DEP may consider in making its determination:

- Regarding **project size**, DEP will consider a project as having acceptable risk tolerances which generally follows accepted construction practices (including following DEP technical guidance documents), possesses reputable/responsible operators, and does not disturb sensitive areas. In general, DEP will not have an established upper size limit for these projects to use an ESCGP but maintains its regulatory discretion to require an individual permit when warranted.
- Regarding **construction methodology**, DEP has no objections to the use of trenchless technology provided appropriate analysis and design is completed by the applicant and appropriate measures are proposed during construction. DEP will look at trenchless technologies, including Horizontal Directional Drilling, and related risk factors – such as proximity to public/private wells and existence of Karst terrain and/or mine voids. It should be noted that there may be cases where open trench methods across aquatic resources may be the least environmentally impactful alternative. An appropriate alternatives analysis would be needed by the applicant in order to make this determination.
- The existence of **soils with high erodibility or geologic hazards** – both of which may require a more in-depth analysis/review and/or the use of additional best management practices beyond the customary approach.
- **Potential impacts to Threatened and Endangered species** such as the Bog Turtle or Indiana Bat. These decisions will likely occur in coordination with applicable resource agencies (including recommended protective measures and seasonal restrictions) and any necessary Ch. 105 permitting.

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- **Aquatic Resource Crossings** of significant concern. This would apply mostly to projects proposing open trench work but may also involve projects proposing trenchless technology which would be dependent on the applicant's level of environmental due diligence. Temporary impacts to accommodate ingress/egress and temporary workspace can also be a consideration.
- Work areas that have known issues from previous **construction phases** or construction activities in the same general area.
- Projects proposing earth disturbance in areas with known **soil or groundwater contamination** including constituents that have been properly assessed and are above the residential statewide health standard per Ch. 250. This would be dependent on the applicant's level of environmental due diligence.
- Project areas with **previous industrial land use and suspected contamination** (unknown in quantity and extent) will likely be highly scrutinized regardless of construction methodology and require coordination with the appropriate programs in the corresponding DEP regional office. (e.g. Environmental Cleanup and Brownfields, Waste Management, Clean Water, Radiation Protection, Air Quality)