pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF CLEAN WATER

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

NPDES PERMIT NO: PAD510217 A-2

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (the Act) and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq.,

Permittee

Philadelphia Energy Solutions Refinery and Marketing LLC
3144 West Passyunk Avenue
Philadelphia, PA 19145-5208

Project Site

THe Bellwether District Industrial Major Amendment 2 lot 16
City of Philadelphia, Philadelphia County
Earth Disturbance: 48.24 acres

is authorized to discharge stormwater from an earth disturbance activity to **Schuylkill River** in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B and C herein.

THIS PERMIT SHALL BECOME EFFECTIVE ON **JUNE 12, 2024**

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON **DECEMBER 5, 2027**

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.

2. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. (40 CFR 122.41(a))

3. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form. (40 CFR 122.41(b), 122.21(d))

   In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application. (25 Pa. Code §§ 92a.7(b), (c))

Ranjana Sharp

Ranjana Chopra Sharp, P.E.
Environmental Program Manager
Southeast Regional Office

ISSUANCE DATE:

JUNE 12, 2024

Amendment 2 lot 16 1

PART A – EFFLUENT LIMITATIONS, RECORDKEEPING AND REPORTING REQUIREMENTS

I. DEFINITIONS

Alternative BMP means a best management practice that is not identified in the Department's Erosion and Sediment Pollution Control Program Manual (363-2134-008) or Pennsylvania Stormwater Best Management Practices Manual (363-0300-002) but may be proposed and approved by DEP to achieve compliance with the provisions of Chapter 102, under the authority of 25 Pa. Code § 102.11(b).

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

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

Clean fill means uncontaminated, non-water-soluble, non-decomposable, inert solid material used to level an area or bring an area to grade. The term includes only those materials that are identified as "fill," as the term is defined in this permit. The term does not include fill that has been blended, mixed or treated with the purpose of meeting the definition of "clean fill" and that without being blended, mixed or treated would fail to meet the numeric limits identified in the definition of "uncontaminated material" contained in DEP's Management of Fill Policy (258-2182-773).

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

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

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

DEP means the Pennsylvania Department of Environmental Protection.

DEP/CCD means either DEP or a CCD or both. Where the term DEP/CCD is used to describe an action that will or may be taken, the term generally applies to both. Where the term DEP/CCD is used to describe the agency that must receive applications, reports, notifications or other information required by the permit, the term generally applies to the agency that is the recipient of the application.

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

Discharge point means all engineered structures, drainageways and areas of concentrated flow where runoff leaves a project site, except for areas of shallow concentrated flow that are controlled by perimeter BMPs. Discharge points are not only pipes (outlets from BMPs) but also include areas where stormwater flows will concentrate by design and areas of concentrated flow prior to level spreaders or other diffusion of flows. Discharge points may be situated at or near surface waters or at another location, at or prior to the project site boundary.

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

Earth disturbance activity means a construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities,

oil and gas activities, well drilling, mineral extraction, and the moving depositing, stockpiling, or storing of soil, rock or earth materials. (25 Pa. Code § 102.1)

Environmental due diligence means investigative techniques, including, but not limited to, visual property inspections, electronic database searches, review of ownership and use history of property, Sanborn maps, environmental questionnaires, transaction screens, analytical testing, environmental assessments or audits.

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

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

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

Fill means clean, regulated and historic fill that is soil, rock, stone, gravel, used asphalt, brick, block or concrete from construction and demolition activities that is separate from other waste and recognizable as such, and "dredged material," as the term is defined by the municipal and residual waste regulations, 25 Pa. Code §§ 271.1 and 287.1, whichever is applicable. The term does not include reclaimed asphalt pavement, naturally occurring asbestos, mine spoils or acid-producing rock.

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

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

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

Municipality means a city, town, borough, county, township, school district, institution, authority or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes or other wastes. (25 Pa. Code § 92a.2)

New discharge means a new source as defined at 40 CFR § 122.2

Non-stormwater discharges means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building washdown, irrigation water, or uncontaminated ground water or spring water.

Notice of Termination (NOT) means a request, on a form provided by DEP, to terminate coverage under a General or Individual NPDES Permit for Stormwater Discharges Associated with Construction Activities or other permits under Chapter 102. (25 Pa. Code § 102.1)

Off-site construction support activities or off-site support activities means activities providing support for construction and earth disturbance activities covered by this permit, including but not limited to concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas (spoil), borrow areas, stockpiling of topsoil, transfer of topsoil to other locations, and turnaround areas.

Operator means a person who has one or more of the following: (i) oversight responsibility of earth disturbance activity on a project site or a portion thereof who has the ability to make modifications to the E&S Plan, PCSM Plan or site specifications, (ii) day-to-day operational control over earth disturbance activity on a project site or a portion thereof to ensure compliance with the E&S Plan or PCSM Plan. (25 Pa. Code § 102.1)

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

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

Person means 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. (25 Pa. Code § 102.1)

Point source means a discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, Concentrated Aquatic Animal Production (CAAP) facility, Concentrated Animal Feeding Operation (CAFO), landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged. (25 Pa. Code §§ 92a.2, 92a.3(b)(1) and 40 CFR § 122.2)

Pollutant means any contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water that causes or has the potential to cause pollution as defined in Section 1 of the Clean Streams Law (35 P.S. § 691.1). (25 Pa. Code § 102.1)

Post-Construction Stormwater Management (PCSM) Plan means a site-specific plan consisting of both drawings and a narrative that identifies BMPs to manage changes in stormwater runoff volume, rate and water quality after earth disturbance activities have ended and the project site is permanently stabilized. (25 Pa. Code § 102.1)

Preparedness, Prevention and Contingency (PPC) Plan means a written plan that identifies an emergency response program, material and waste inventory, spill and leak prevention and response, inspection program, housekeeping program, security and external factors, and that is developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of this Commonwealth. (25 Pa. Code § 102.1)

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

Regulated fill means soil, rock, stone, dredged material, used asphalt, historic fill, and brick, block or concrete from construction and demolition activities that is separate from other waste and recognizable as such that has been affected by a spill or release of a regulated substance and the concentrations of regulated substances exceed the values in Tables FP-1a and b of DEP's Management of Fill Policy (258-2182-773).

Roadway Standard means BMPs and project site conditions that may be utilized by an applicant for managing sheet or dispersed runoff flows for the purpose of complying with 25 Pa. Code § 102.8 and for obtaining permit coverage.

Rooftop Standard means BMPs and project site conditions that may be utilized by an applicant for managing concentrated runoff flows for the purpose of complying with 25 Pa. Code § 102.8 and for obtaining permit coverage.

Site Restoration means, for the purpose of this permit, a project that will restore the area of earth disturbance to approximate original condition or will otherwise involve no change or a decrease in the area of pre-construction impervious surfaces, including (i) environmental enhancement projects, such as wetland mitigation projects, stormwater retrofits and stream restoration projects; (ii) bike paths, walking paths and trails associated with vegetated open space (natural grass) or forests; (iii) sidewalk construction projects that are not part of road or highway construction or reconstruction project or a common plan of development or sale; (iv) slope stabilization projects not associated with a road maintenance activity; (v) slope flattening, not associated with a road maintenance activity, that changes the grade of the site, but does not significantly change the runoff characteristics; (vi) spoil areas that will be covered with vegetation; (vii) land clearing and grading for the sole

purpose of creating vegetated open space such as parks and fields, excluding projects that alter hydrology from pre- to post-construction conditions; (viii) athletic fields (natural grass) that do not include the construction or reconstruction of impervious area and do not alter hydrology from pre- to post-construction conditions; and (ix) demolition projects where vegetation will be established and no redevelopment is planned.

Site Restoration PCSM BMP means restoration of post-construction land cover to approximate pre-construction land cover with respect to stormwater runoff properties.

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

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

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

Surface waters means perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process. (25 Pa. Code § 102.1)

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

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

Waters of the Commonwealth means rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all 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. (35 P.S. § 691.1)

Wetlands means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. (25 Pa. Code § 105.1)

II. EFFLUENT LIMITATIONS

A. BMPs.

Except as required by 25 Pa. Code § 102.11(c), this permit establishes narrative performance-based effluent limitations in the form of BMPs identified in E&S Plans, PCSM Plans, and PPC Plans, which control the volume, rate, and quality of stormwater runoff and associated pollutants from being discharged into surface waters, and which replicate pre-construction infiltration and runoff conditions to the maximum extent practicable.

B. Technology-Based Effluent Limitations.

1. The permittee shall design, install and maintain effective erosion controls and sediment controls, and PCSM BMPs, to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to: (25 Pa. Code § 102.11(c) and 40 CFR § 450.22(c))

   a. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges.

   b. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.

   c. Minimize the amount of soil exposed during construction activity.

   d. Minimize the disturbance of slopes exceeding 15%.

   e. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.

   f. Provide and maintain natural buffers around surface waters of the Commonwealth, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible.

   g. Avoid or minimize soil compaction in all areas where BMPs utilizing infiltration to manage stormwater is proposed. If the areas planned for infiltration BMPs are compromised through compaction or other means, the permittee shall conduct soil testing to verify that the BMP will perform as designed and implement measures to decompact the soils, as applicable.

   h. Preserve topsoil unless the intended function of a specific area of the project site dictates that the topsoil be disturbed or removed.

2. Soil Stabilization. (25 Pa. Code § 102.22)

   a. Temporary Stabilization.

      i. Upon temporary cessation of an earth disturbance activity or any stage or phase of an activity where a cessation of earth disturbance activities will exceed 4 days, the site shall be immediately seeded, mulched, or otherwise protection from accelerated erosion and sedimentation pending future earth disturbance activities.

      ii. For an earth disturbance activity or any stage or phase of an activity to be considered temporarily stabilized, the disturbed areas shall be covered with one of the following:

         (1) A minimum uniform coverage of mulch and seed, with a density capable of resisting accelerated erosion and sedimentation.

         (2) An acceptable BMP which temporarily minimizes accelerated erosion and sedimentation.

b. Permanent Stabilization – Upon final completion of an earth disturbance activity or any stage or phase of an activity, the site shall immediately have topsoil restored, replaced, or amended, seeded, mulched or otherwise permanently stabilized and protected from accelerated erosion and sedimentation.

i. E&S BMPs shall be implemented and maintained until the 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.

ii. For an earth disturbance activity or any stage or phase of an activity to be considered permanently stabilized, the disturbed areas shall be covered with one of the following:

(1) A minimum uniform 70% perennial vegetative cover, with a density capable of resisting accelerated erosion and sedimentation.

(2) An acceptable BMP which permanently minimizes accelerated erosion and sedimentation.

c. The permittee shall not utilize seed mixtures containing invasive species or species that may be harmful to native plant communities.

3. Unless otherwise authorized by DEP/CCD, discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed as follows: (25 Pa. Code § 102.11(c) and 40 CFR § 450.22(e))

a. Construction dewatering water may not be discharged directly to surface waters.

b. The permittee shall use an oil-water separator or suitable filtration device that is designed to remove oil, grease, or other products if dewatering water is found to contain those materials.

c. The permittee shall utilize upland vegetated areas of the project site to infiltrate construction dewatering water prior to discharge, to the extent feasible.

d. The permittee shall collect and dispose of materials and substances collected by filtration devices and backwash from these devices off-site unless otherwise authorized by DEP/CCD.

4. The permittee shall design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to: (25 Pa. Code § 102.11(c) and 40 CFR § 450.22(f))

a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge.

b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the project site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

c. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures. The permittee shall prepare and implement a Preparedness, Prevention and Contingency (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. The PPC Plan shall be available upon request by DEP/CCD. (25 Pa. Code § 102.5(l))

5. The permittee may not discharge the following: (25 Pa. Code § 102.11(c) and 40 CFR § 450.22(g))

   a. Wastewater from washout of concrete.

   b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.

   c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

   d. Soaps or solvents used in vehicle and equipment washing.

6. The permittee shall utilize outlet structures that withdraw water from the surface when discharging from basins and impoundments, unless infeasible. (25 Pa. Code § 102.11(c) and 40 CFR § 450.22(h))

C. Water Quality-Based Effluent Limitations.

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

D. All stormwater discharges must comply with all applicable requirements established in accordance with DEP's regulations at 25 Pa. Code Chapters 91-96, 102, and 105. For all permittees covered under this permit, DEP/CCD may, upon written notice, require additional BMPs or other control measures to ensure that the water quality standards of the receiving waters are attained.

E. The permittee may not discharge:

1. Floating solids, scum, sheen or substances that result in observed deposits in the receiving water or foam or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water. (25 Pa. Code § 92a.41(c))

2. Substances in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life. (25 Pa. Code § 93.6(a))

III. MONITORING, REPORTING AND RECORDKEEPING

A. When stormwater samples are collected and analyzed or measurements are taken under this permit, the permittee shall assure:

1. Samples and measurements taken for the purpose of monitoring are representative of the monitored activity. (25 Pa. Code § 92a.3(c) and 40 CFR § 122.41(j)(1))

2. Records of monitoring information includes: (25 Pa. Code § 92a.3(c) and 40 CFR § 122.41(j)(3))

   a. The date, exact place, and time of sampling or measurements.
   b. The individual(s) who performed the sampling or measurements.
   c. The date(s) analyses were performed.
   d. The individual(s) who performed the analyses.
   e. The analytical techniques or methods used.
   f. The results of such analysis.

3. Monitoring is conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR Subchapters N or O. (25 Pa. Code § 92a.3(c) and 40 CFR § 122.41(j)(4))

4. Sampling and analysis of samples meet proper quality assurance and quality control (QA/QC) procedures. (25 Pa. Code §§ 92a.3(c), 92a.41(a), 92a.61(i) and 40 CFR §§ 122.41(e), 122.41(i)(3), 122.41(i)(4))

B. Records Retention.

1. The permittee shall retain all records of monitoring activities and results, copies of all plans and reports required by this permit, and records of all data used to complete the application for this permit, for at least three (3) years from the date of the Notice of Termination (NOT) approval. The permittee shall submit such records to DEP/CCD upon request. (25 Pa. Code § 92a.3(c) and 122.41(j)(2))

2. The permittee shall retain a physical or electronic copy of this permit, the application submitted for permit issuance, all attachments to the application, and the E&S Plan, PCSM Plan, and PPC Plan, as applicable, on-site during earth disturbance activities at all times, and shall make these documents available to DEP/CCD for inspection upon request.

C. Inspection and Oversight Requirements. (25 Pa. Code § 102.4(b)(5)(x))

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

- Routine Inspections shall be conducted weekly.
- Post-Storm Event Inspections shall be conducted within 24 hours after each measurable storm event (0.25 inch or greater) or the occurrence of snowmelt sufficient to cause a discharge.
- Corrective Action Inspections shall be conducted anytime the permittee observes a deficiency in implementation of the E&S and PCSM Plans.

a. The permittee shall document each site inspection on DEP's Chapter 102 Visual Site Inspection Report (3800-FM-BCW0271d) or alternative document or electronic form that collects and retains identical information. All requested information on the Visual Site Inspection Report must be completed. If electronic forms are used to document site inspections, the permittee shall provide a physical copy of the inspection report to DEP/CCD upon request.

b. Site inspections shall be performed by personnel that are trained and experienced in E&S and PCSM and are familiar with the E&S and PCSM Plans for the project site.

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

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

a. A licensed professional or a designee shall be present on-site and be responsible for oversight of critical stages of implementation of the PCSM Plan, unless the permittee meets the requirements of 25 Pa. Code § 102.8(n). Critical stages may include the installation of underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by DEP.

b. The licensed professional or designee shall document, using DEP's Chapter 102 Visual Site Inspection Report or another format, findings related to implementation of critical stages of the PCSM Plan. The permittee shall retain this documentation for no less than 3 years from the date of NOT approval and provide it to DEP/CCD upon request.

D. Unanticipated Non-Compliance or Potential Pollution Reporting.

1. Immediate Reporting - The permittee shall immediately report any incident causing or threatening pollution in accordance with the requirements of 25 Pa. Code §§ 91.33 and 92a.41(b) listed below:

   a. If, because of an accident, other activity or incident a toxic substance or another substance is discharged which would endanger downstream users of the water receiving the discharge, or would otherwise result in pollution or create a danger of pollution or would damage property, the permittee shall immediately notify DEP by telephone of the location and nature of the danger. Oral notification to DEP is required as soon as possible, but no later than four (4) hours after the permittee becomes aware of the incident causing or threatening pollution.

   b. The permittee shall immediately notify downstream users of the waters of the Commonwealth to which the substance was discharged. Such notice shall include the location and nature of the danger.

   c. The permittee shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition, within 15 days from the incident, shall remove the residual substances contained thereon or therein from the ground and from the affected waters of this Commonwealth to the extent required by applicable law.

2. The permittee shall report any non-compliance to DEP/CCD which may endanger health or the environment in accordance with the requirements of 40 CFR § 122.41(l)(6) (as incorporated into 25 Pa. Code § 92a.41). These requirements include the following obligations:

   a. 24-Hour Reporting - The permittee shall orally report any non-compliance with this permit to DEP/CCD which may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances, including the discovery of soil or other contamination on-site that could result in stormwater pollution.

   b. Written Report - A written submission shall also be provided to DEP/CCD within 5 days of the time the permittee becomes aware of any non-compliance which may endanger health or the environment. The written submission shall contain a description of the non-compliance and its cause; the period of non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance.

   c. Waiver of Written Report – DEP/CCD may waive the written report on a case-by-case basis if the associated oral report has been received within 24 hours from the time the permittee becomes aware of the circumstances which may endanger health or the environment. Unless such a waiver is expressly granted by DEP/CCD, the permittee shall submit a written report in accordance with this paragraph.

3. Other Non-Compliance

   The permittee shall identify all instances of non-compliance not reported under paragraph D.2 of this section on the Visual Site Inspection Report. The reports shall contain the information listed in paragraph D.2.b of this section. (25 Pa. Code § 92a.41 and 40 CFR § 122.41(l)(7))

E. Signatory Requirements.

1. Applications, reports and other information submitted to DEP/CCD shall be signed and certified by either of the following applicable persons, in accordance with 40 CFR § 122.22 (as incorporated into 25 Pa. Code § 92a.22):

   - For a corporation - by a president, secretary, treasurer, or vice president in charge of a principal business function of the corporation or a duly authorized representative.

- For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
- For a municipality, state, federal or other public agency - by a principal executive officer or ranking elected official.

2. If signed on behalf of a corporation by a duly authorized representative of the permittee, the authorization must meet the following:

   - The authorization must be made in writing by a person described in paragraph 1, above, consistent with the corporation's delegation procedures and must be attached to the application or otherwise be submitted to DEP/CCD.
   - The authorization must specify either an individual or a position having responsibility for the operation of the regulated system, facility or activity consistent with the corporation's delegation procedures, such as the position of manager, operator, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the corporation.

3. Changes in Signatory Authorization - If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the system or facility, a new authorization satisfying the requirements of paragraphs 1 and 2, above, must be submitted to DEP/CCD prior to or together with any reports or information to be signed by an authorized representative.

F. Planned Changes to Physical Facilities – The permittee shall give notice to DEP/CCD as soon as possible but no later than 30 days prior to planned physical alterations or additions to the permitted facility or activity. An application or other written submission to DEP/CCD providing equivalent information can be used to satisfy the notification requirements of this section.

Notice is required when:

1. The alteration or addition to a permitted facility or activity may meet one of the criteria for determining whether a facility or activity is a new source in 40 CFR § 122.29(b). (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(l)(1)(i))

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(l)(1)(ii))

   For stormwater discharges, this may include:

   a. The construction of additional impervious surfaces not reported in the application.

   b. Increases in earth disturbance by 10% or more compared, on a cumulative basis, to the original planned limit of disturbance.

   c. Modifications to the design standards used for the project.

   d. Proposals to eliminate structural or non-structural BMPs planned for in the original design or reduce the dimensions and/or capacities of structural BMPs that may affect performance of those BMPs.

   e. Proposed site alterations that would allow new stormwater flows from off-site to flow onto the site.

3. The planned change may result in non-compliance with permit requirements. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(l)(2))

G. Monitoring.

DEP may require monitoring of stormwater discharges for Total Suspended Solids (TSS), turbidity or other pollutants when DEP suspects the discharge of pollutants from an earth disturbance activity with coverage under this permit, in accordance with 25 Pa. Code § 92a.61(b). Upon receipt of written notification from DEP, the permittee shall perform stormwater monitoring. (25 Pa. Code § 92a.61(b))

H. Annual Fee. (25 Pa. Code § 92a.62)

Permittees shall pay an annual fee in accordance with 25 Pa. Code § 92a.62. As of the effective date of this permit, the facility covered by the permit is classified in the **Chapter 102 Individual NPDES Permit** fee category, which has an annual fee of **$500**.

Invoices for annual fees will be mailed to permittees approximately three months prior to the due date. In the event that an invoice is not received, the permittee is nonetheless responsible for payment. Permittees may contact DEP's Bureau of Clean Water at 717-787-6744 with questions related to annual fees. The fee identified above is subject to change if DEP publishes changes to 25 Pa. Code § 92a.62.

Payment for annual fees shall be remitted to DEP at the address below or through DEP's electronic payment system (www.depgreenport.state.pa.us/NPDESpay) by the due date specified on the invoice. Checks, if used for payment, should be made payable to the Commonwealth of Pennsylvania.

PA Department of Environmental Protection
Bureau of Clean Water
Re: Chapter 92a Annual Fee
P.O. Box 8466
Harrisburg, PA 17105-8466

PART B – STANDARD CONDITIONS

I. MANAGEMENT REQUIREMENTS

A. Compliance.

The permittee shall comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the Act and Clean Streams Law and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or denial of a permit renewal application. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(a))

B. Permit Modification, Termination, or Revocation and Reissuance.

1. DEP may modify, terminate or revoke and reissue this permit during its term. (25 Pa. Code §§ 92a.3, 92a.41(a), 92a.72 – 92a.75 and 40 CFR § 122.41(f))

2. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated non-compliance, does not stay any permit condition. (25 Pa. Code §§ 92a.3, 92a.41(a) and 40 CFR § 122.41(f))

3. In the absence of DEP action to modify or revoke and reissue this permit, the permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time specified in the regulations that establish those standards or prohibitions. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(a)(1))

4. DEP may terminate coverage under this permit for the reasons specified at 40 CFR § 122.64(a). (25 Pa. Code § 92a.74(c) and 40 CFR § 122.64(a))

C. Duty to Provide Information.

1. The permittee shall furnish to DEP/CCD, within a reasonable time, any information which DEP/CCD may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with this permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(h))

2. The permittee shall furnish to DEP/CCD, upon request, copies of records required to be kept by this permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(h))

3. Other Information – Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to DEP/CCD, it shall promptly submit the correct and complete facts or information. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(l)(8))

D. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs, which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. The permittee shall properly operate and maintain backup or auxiliary facilities or similar systems installed by the permittee, as necessary to achieve compliance with the terms and conditions of this permit. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(e))

E. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. (25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(d))

II. PENALTIES AND LIABILITY

A. Violations of Permit Conditions.

DEP/CCD may take an enforcement action to restrain violations, to impose criminal or civil penalties, to withhold a permit, or to seek other remedies or relief as authorized by the Clean Streams Law against a permittee that violates any condition or limitation of this permit, or any rule, regulation or order issued by DEP/CCD.

B. Falsifying Information.

The permittee or any person who engages in the conduct described below may, upon conviction, be punished by a fine and/or imprisonment pursuant to 18 Pa.C.S. § 4904, or 40 CFR §§ 122.41(j)(5) or (k)(2). (25 Pa. Code § 92a.41(a))

- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit; or

- Knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit (including monitoring reports or reports of compliance or non-compliance).

C. Liability.

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for non-compliance pursuant to Section 309 of the Clean Water Act or Sections 602, 603 or 605 of the Clean Streams Law.

Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under the Clean Water Act and the Clean Streams Law.

D. Need to Halt or Reduce Activity Not a Defense.

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

III. OTHER RESPONSIBILITIES

A. Right of Entry.

The permittee shall allow authorized representatives of DEP/CCD and EPA to conduct the following activities upon the presentation of credentials and other documents as may be required by law (35 P.S. §§ 691.5(b) and 691.305, 25 Pa. Code § 92a.41(a) and 40 CFR § 122.41(i)(2)):

1. To 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; (40 CFR § 122.41(i)(1))

2. To have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; (40 CFR § 122.41(i)(2))

3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and (40 CFR § 122.41(i)(3))

4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Clean Streams Law, any substances or parameters at any location. (40 CFR § 122.41(i)(4))

B. Transferring Permit Coverage.

1. Transfer Requests by Permittees. (25 Pa. Code § 92a.71 and 40 CFR § 122.61(b))

a. If the permittee (i.e., the person(s) identified on the application form as the applicant(s)) decides to transfer the permit to another person(s) prior to submission of an NOT to terminate coverage, the permittee shall submit an application to DEP/CCD to transfer permit coverage at least 30 days prior to the proposed date of transfer, using DEP's Application for NPDES or WQM Permit Transfer (3800-PM-BCW0041) (Transfer Application). The permit will be automatically transferred to the new permittee on the date specified in the Transfer Application if all of the following are true:

i. The Transfer Application is signed by the existing and new permittees and contains a specific date for transfer of permit responsibility, coverage and liability between them.

ii. DEP does not notify the existing permittee and the proposed new permittee in writing prior to the transfer date of its intent to modify or revoke and reissue this permit.

iii. The new permittee is in compliance with existing DEP/CCD issued permits, regulations, orders and schedules of compliance, or has demonstrated that any non-compliance with the existing permits has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including compliance schedules set forth in the permit), consistent with 25 Pa. Code § 92a.51 (relating to schedules of compliance) and other appropriate DEP regulations.

b. If the transfer does not occur automatically as specified in paragraph B.1.a of this section, the permit may be transferred by the permittee to a new owner or operator only if both parties request a modification of the permit, using the Transfer Application, and DEP/CCD approves the modification or revokes and reissues the permit. The permit may be transferred both during the term of this permit and during period(s) of administrative extension of this permit.

c. In the event DEP/CCD does not approve transfer of this permit, the new owner or operator must submit a new application.

d. Transfer of a portion of a project site is not authorized under this permit unless otherwise approved by DEP.

e. The Transfer Application must include information required by Part C VI of this permit, relating to long-term operation and maintenance of PCSM BMPs, where applicable.

2. Co-Permittee Requirements for Operators. (25 Pa. Code § 102.5(h))

a. Operators who are not the permittee shall be co-permittees. Following approval of coverage, the permittee shall require any operator, as defined in this permit, that was not identified on the application for permit coverage to complete and sign the Co-Permittee Acknowledgement for Chapter 102 Permits form (3800-FM-BCW0271a) prior to commencing earth disturbance activities covered by this permit. The permittee shall complete and sign the Co-Permittee Acknowledgement form, retain the form for a period no less than three (3) years, and submit the form to DEP/CCD prior to the operator engaging in earth disturbance activities. Upon signing the Co-Permittee Acknowledgement form, the operator is considered a co-permittee.

b. If an operator completes its job responsibilities, the operator may elect to terminate its responsibilities under the permit, prior to submission of an NOT by the permittee, by completing and signing a Co-Permittee Liability Release form (3800-FM-BCW0271). These forms shall be signed by the permittee, retained by the permittee for a period no less than three (3) years, and submitted to DEP/CCD.

C. Amending Permit Coverage.

The permittee shall notify DEP/CCD of any planned change to earth disturbance activities, BMPs, or any other change that may affect permit coverage prior to implementing the change. DEP/CCD will notify the permittee whether the submission of an application to amend permit coverage is required. The permittee may not proceed to implement the proposed change until the permittee receives written approval for the amendment from DEP/CCD, when applicable.

D. Terminating Permit Coverage.

1. General.

Upon permanent stabilization of earth disturbance activities under 25 Pa. Code § 102.22(a)(2) and installation of BMPs in accordance with the E&S Plan and, where applicable, the PCSM Plan, the permittee shall submit a Notice of Termination (NOT) to DEP/CCD using form 3800-PM-BCW0229b. A copy of the NOT must be submitted to the municipality(ies) where the project site is located. The NOT must include:

a. The project site name, address, and location.

b. The operator name and address.

c. The permit number.

d. The reason for the permit termination.

e. Information required by Part C VI of this permit, relating to long-term operation and maintenance of PCSM BMPs, where applicable.

2. Responsibility.

Until the permittee has received written approval of the NOT, the permittee, and co-permittees, 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 and is responsible for violations occurring on the project site. DEP/CCD will conduct an inspection and approve or deny the NOT within 30 days of receipt. (25 Pa. Code § 102.7(c))

3. PCSM BMP Final Certification.

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

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

b. The permittee shall retain a copy of the record drawings as part of the approved PCSM Plan. The permittee shall also provide a copy of the record drawings as part of the approved PCSM Plan to the following: 1) the persons identified as responsible for the long-term operation and maintenance of PCSM BMPs; 2) DEP/CCD; and 3) the municipality(ies) where the project is located. (25 Pa. Code § 102.8(l))

E. Property Rights.

The approval of coverage under this permit does not convey any property rights, or any exclusive privilege. (25 Pa. Code § 92a.41(a) and 40 CFR 122.41(g))

F. Duty to Reapply.

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

G. Incorporation of Application.

The approval of coverage is granted based, in part, on information provided by the applicant in the application. The information provided by the applicant, including all attachments, plans and supporting documentation, are incorporated by reference as part of the approval and are enforceable as a condition of the approval. If there is any conflict between the permit and the application, including any attachments, plans, and other supporting documentation, the more protective provision applies.

H. Other Laws.

No condition of this permit releases the permittee from any responsibility, requirement, or liability under other federal or Pennsylvania statutes or regulations or any local ordinance.

PART C – SPECIAL CONDITIONS

I. AUTHORIZED DISCHARGES

A. Authorized Stormwater Discharges.

The following stormwater discharges associated with construction activity are authorized under the permit provided that the appropriate stormwater controls are designed, installed, and maintained by the permittee in accordance with applicable laws, regulations and guidance administered by DEP or EPA:

1. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity as defined at 40 CFR § 122.26(b)(14)(x).

2. Stormwater discharges designated by DEP as needing permit coverage under 40 CFR § 122.26(a)(1)(v), 40 CFR § 122.26(b)(15)(ii) or the Pennsylvania Clean Streams Law that are associated with construction activity.

3. Stormwater discharges from off-site construction support activities (off-site support activities) including but not limited to concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal (spoil) areas, borrow areas, stockpiling of topsoil, transfer of topsoil to other locations, and turnaround areas, provided that:

   a. The off-site support activity is part of the same common plan of development or sale required to have permit coverage for stormwater discharges.

   b. The off-site support activity is not a commercial operation, nor does it serve multiple unrelated construction sites.

   c. The off-site support activity does not continue to operate beyond the completion of the construction activity at the project site it supports and will be restored to approximate original condition, as defined in the permit.

B. Authorized Non-Stormwater Discharges.

The following non-stormwater discharges associated with construction activity are authorized under the permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on the project site and the operator complies with any applicable requirements for these discharges under the permit:

1. Discharges from emergency fire-fighting activities.

2. Fire hydrant and waterline flushings that do not contain measurable concentrations of Total Residual Chlorine (TRC).

3. Landscape irrigation water.

4. Water used to wash vehicles and equipment where cleaning agents are not used.

5. Water used to control dust.

6. External building washdown where cleaning agents are not used and external surfaces do not contain hazardous substances.

7. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred and where cleaning agents are not used if such wash waters are directed to a sediment basin or similar BMP.

8. Uncontaminated air conditioning or compressor condensate.

9. Uncontaminated, non-turbid discharges of groundwater or spring water.

10. Foundation or footing drainage where flows are not contaminated with process materials such as solvents or contain pollutants from groundwater.

11. Construction dewatering water that complies with the construction dewatering discharge requirements of the permit.

II. COMMENCEMENT OF DISCHARGES

No new discharge may be commenced under this permit until the applicant demonstrates compliance with and/or completes all of the following:

A. A complete application package (3800-PM-BCW0407b and required attachments) has been submitted, as determined by DEP/CCD, in accordance with the requirements of the permit and permit instructions.

B. The applicant has received the written permit, signed by the appropriate DEP manager.

C. The applicant has obtained all other state and local permits and approvals arising out of the earth disturbance activities reported in the application, including but not limited to sewage planning approval required by the Pennsylvania Sewage Facilities Act (Act 537), if applicable.

D. A pre-construction meeting has been held unless waived by DEP/CCD, in writing.

III. PRE-CONSTRUCTION MEETING AND NOTIFICATION

A. A pre-construction meeting is required unless the permittee has been notified otherwise in writing by DEP/CCD. The permittee shall invite the agency approving coverage under this permit to attend the pre-construction meeting and provide at least 7 days' notice of the pre-construction meeting to all invited attendees. Permittees, co-permittees, operators, and licensed professionals or designees responsible for the earth disturbance activity, including implementation of E&S and PCSM Plans and critical stages of implementation of the approved PCSM Plan, shall attend a pre-construction meeting. (25 Pa. Code § 102.5(e))

B. The permittee shall provide written or verbal notification to DEP/CCD upon completing the installation or stabilization of all perimeter sediment control BMPs and at least three (3) days prior to proceeding with the bulk earth disturbance activities.

IV. E&S PLANS

A. The permittee shall implement an E&S Plan that meets the requirements of 25 Pa. Code § 102.4(b) and contains E&S BMPs that will be designed, implemented and maintained to minimize the potential for accelerated erosion and sedimentation and achieve the effluent limitations set forth in Part A of this permit.

B. The E&S Plan, including construction sequencing and operation and maintenance of BMPs, shall be implemented at all times.

C. The permittee shall maintain the approved E&S Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP/CCD upon request.

V. PCSM PLANS

A. The permittee shall implement a PCSM Plan that meets the requirements of 25 Pa. Code § 102.8 and contains PCSM BMPs that will be designed, implemented and maintained to achieve the effluent limitations set forth in Part A of this permit.

B. The PCSM Plan, including construction sequencing and operation and maintenance of BMPs, shall be implemented at all times.

C. The permittee shall maintain the authorized PCSM Plan on-site during earth disturbance activities at all times and shall make the plan available for inspection by DEP/CCD upon request.

VI. LONG-TERM OPERATION AND MAINTENANCE OF PCSM BMPs

A. The permittee shall be responsible for long-term operation and maintenance (O&M) of PCSM BMPs unless a different person is identified in the NOT and that person has agreed to long-term O&M of PCSM BMPs. (25 Pa. Code § 102.8(m)(1))

B. For any property containing PCSM BMPs, the permittee shall record an instrument with the Recorder of Deeds which will assure disclosure of the PCSM BMPs and the related obligations in the ordinary course of a title search of the subject property within 45 days of approval of coverage under this Permit, unless extended in writing by DEP or CCD. The recorded instrument must:

1. Identify the PCSM BMPs. PCSM BMPs under this Permit include all BMPs identified in the PAG-01 NOI and PCSM Plan, including vegetated areas used for managing stormwater through overland flow.

2. Provide for necessary access related to long-term O&M for PCSM BMPs.

3. Provide notice that the responsibility for long-term O&M of the PCSM BMPs is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees.

The permittee shall provide proof of filing the instrument with the Recorder of Deeds as an attachment to the Transfer Application required by Part B III.B of this Permit, if applicable, and the NOT required by Part B III.D of this Permit. (25 Pa. Code § 102.8(m)(2))

C. For Commonwealth-owned or federally-owned property, a covenant that runs with the land is not required until the transfer of the land containing a PCSM BMP to a non-Commonwealth or non-federal entity occurs. Upon transfer of the Commonwealth-owned or federally-owned property containing the PCSM BMP, the deed must comply with 25 Pa. Code § 102.8(m). (25 Pa. Code § 102.8(m)(3))

D. The person responsible for performing long-term O&M may enter into a written agreement with another person, including a CCD, nonprofit organization, municipality, authority, private corporation, or other person, to transfer the responsibility for PCSM BMPs or to perform long-term O&M and provide notice thereof to DEP/CCD. (25 Pa. Code § 102.8(m)(4))

E. A permittee that fails to transfer long-term O&M of the PCSM BMPs or otherwise fails to comply with this requirement, shall remain jointly and severally responsible with the landowner for long-term O&M of the PCSM BMPs located on the property. (25 Pa. Code § 102.8(m)(5))

F. The permittee shall include record drawings that accurately reflect as-built conditions and contain a long-term O&M schedule as an attachment to the recorded instrument, either directly or by reference. The long-term O&M schedule must provide for access to the PCSM BMPs in addition to information on inspection, repair, replacement, and routine maintenance to ensure proper function and operation of the PCSM BMPs.

G. For PCSM BMPs that are located within urbanized areas or otherwise discharge to a municipal separate storm sewer system (MS4), the permittee shall specify in the long-term O&M schedule that copies of all inspection reports be submitted by the person responsible for long-term O&M to the municipality or other entity that owns or operates the MS4.

H. Unless an alternative process is approved by DEP/CCD in writing, upon the sale or other transfer of any parcel, lot, road or other real property included within the permit boundary, the permittee shall notify the purchaser, grantee, or transferee of the long-term PCSM BMP O&M requirements. The permittee shall expressly identify:

1. The PCSM BMPs on each property.

2. The schedule for inspection and reporting.

3. The person or entity responsible for long-term O&M of the PCSM BMPs.

4. How access to the BMPs will be achieved.

Unless a later date is approved by DEP in writing, the permittee shall provide DEP and CCD with notice of compliance with this section within 45 days from the date of transfer of the property and at the time the permittee files an NOT.

VII. IMPORTED FILL AND SITE CONTAMINATION

A. Imported Fill.

1. With the exception of sites enrolled in DEP's Land Recycling and Remediation Standards Act (Act 2) Program and sites with DEP Waste Management General Permit (WMGR096) approval to use regulated fill, all fill material imported to the site must meet the definition of clean fill, as defined in DEP's Management of Fill Policy. Regulated fill used on Act 2 sites must comply with the standards established by the Act 2 Program. Regulated fill used outside of Act 2 sites must comply with DEP Waste Management General Permit WMGR096.

2. For areas not enrolled in the Act 2 Program, the permittee shall comply with DEP's Management of Fill Policy (Document No. 258-2182-773) if fill is imported to the site, and comply with the following when using fill at the site to level an area or bring it to grade:

   a. The permittee shall conduct environmental due diligence to determine whether the fill has been affected by a release of a regulated substance. If due diligence was conducted prior to submitting the permit application and circumstances have not changed between the due diligence and the use of the fill, due diligence does not need to be repeated.

   b. If due diligence results in evidence of a release, as defined in DEP's Management of Fill Policy, the permittee shall test the material to determine whether it qualifies as clean fill, and if so, DEP's electronic Form FP-001 (Certification of Clean Fill) must be completed, retained by the permittee and be made available to DEP/CCD upon request. If the fill does not qualify as clean fill, but meets the regulated fill standards, it may be used in accordance with an approval for coverage under DEP Waste Management General Permit WMGR096.

B. On-Site Soil Contamination.

1. For sites enrolled in the Act 2 Program, if the results of soil sampling in the area of earth disturbance activities demonstrate newly discovered soil contamination with concentrations of regulated substances exceeding the residential or non-residential medium-specific concentrations (MSCs), whichever is applicable, the permittee shall notify DEP/CCD by phone within 24 hours of receiving the sampling results. Earth disturbance activities in areas of newly discovered contamination need not cease after notification to DEP/CCD unless so directed by DEP/CCD.

2. For areas not enrolled in the Act 2 Program, if the permittee or co-permittee discovers during earth disturbance activities wastes or other materials or substances that have or have likely caused soil contamination with concentrations of regulated substances exceeding the residential or non-residential MSCs, whichever is applicable, the permittee shall notify DEP/CCD by phone within 24 hours. Earth disturbance activities in areas of newly discovered contamination need not cease after notification to DEP/CCD unless so directed by DEP/CCD.

C. On-Site Groundwater Contamination.

If the results of sampling performed on groundwater encountered during earth disturbance activities demonstrate that the groundwater is contaminated by one or more pollutants at concentrations exceeding water quality criteria contained in 25 Pa. Code Chapter 93, that were not previously disclosed to DEP/CCD, the permittee shall notify DEP/CCD by phone within 24 hours of receiving the sampling results. Contaminated groundwater may not be pumped or otherwise diverted to surface waters unless specifically authorized by the DEP Clean Water Program.

VIII. IMPLEMENTATION OF PERMIT REQUIREMENTS

A. Prior to commencement of construction activities or commencement of work on the project site, the permittee and co-permittees shall ensure that the following personnel understand the requirements of and their specific responsibilities under this permit:

1. Personnel responsible for the installation, maintenance, and/or repair of E&S and PCSM BMPs and implementation of the PPC Plan.

2. Personnel responsible for the application and storage of treatment chemicals (if applicable).

3. Personnel responsible for conducting inspections.

4. Personnel responsible for taking corrective actions.

B. The permittee and co-permittee(s) are responsible for ensuring that all activities on the project site comply with the requirements of this permit. The permittee and co-permittee(s) are not required to provide or document formal training for subcontractors or other outside service providers, but the permittee and co-permittee(s) must ensure that personnel understand any requirements of this permit that are relevant to the work they are subcontracted to perform.

C. At a minimum, the permittee and co-permittee(s) must ensure that personnel understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections).

1. When and how to conduct site inspections, record applicable findings, and take correction actions.

2. The permit deadlines associated with installation, maintenance, removal of stormwater controls, and site stabilization.

3. The location of all stormwater controls on the project site required by this permit and how they are to be maintained.

4. The proper procedures to follow with respect to the permit's pollution prevention requirements and when to notify DEP/CCD of potential pollution and changes to earth disturbance activities.

D. A training log must be kept on-site and made available upon request from EPA, DEP, or CCD staff.

E. All personnel must have access at all times during earth disturbance activities to an electronic or paper copy of this permit, the approved copies of the E&S, PCSM and PPC Plans, and other relevant documents or information that must be kept with these plans.

IX. OTHER REQUIREMENTS

A. Cessation of Earth Disturbance Activities.

The permittee shall cease earth disturbance activities resulting in stormwater discharges during construction upon written notification from DEP/CCD in the form of an order or inspection report, and may not resume such activities until authorized to do so by DEP/CCD. DEP/CCD may require cessation of earth disturbance activities where required plans are not in place, where plans are significantly deficient and could result in environmental harm, or where potential or actual harm is identified during on-site inspections.

B. Compliance and Enforcement.

1. A person aggrieved by an action of a CCD shall request an informal hearing with DEP within 30 days following the notice of the action. DEP will schedule the informal hearing and make a final determination within 30 days of the request. Any final determination by DEP under the informal hearing may be

appealed to the Environmental Hearing Board (EHB) in accordance with established administrative and judicial procedures. (25 Pa. Code § 102.32(c))

2. For enforcement action taken under this permit, DEP/CCD may collect or recover, from the responsible party, costs and expenses involved in taking enforcement action and initiating cost recovery actions. DEP/CCD may collect the amount in the same manner as civil penalties are collected under section 605 of The Clean Streams Law (35 P.S. § 691.605). (25 Pa. Code § 102.32(d))

C. Waste Management.

The permittee shall handle, recycle and/or dispose of collected screenings, slurries, sludges, and other solids in compliance with state and federal law, including the Solid Waste Management Act (35 P.S. §§ 6018.101 – 6018.1003), 25 Pa. Code Chapters 287, 288, 289, 291, 295, 297, and 299 (relating to requirements for landfilling, impoundments, land application, composting, processing, and storage of residual waste), Chapters 261a, 262a, 263a, and 270a (related to identification of hazardous waste, requirements for generators and transporters, and hazardous waste, requirements for generators and transporters, and hazardous waste permit programs), 40 CFR Part 257 (relating to criteria for classification of solid waste disposal facilities and practices), The Clean Streams Law, and the Clean Water Act.

D. Non-Stormwater Discharges.

Except as set forth in Part C I.B of this permit, non-stormwater discharges are not authorized under this permit. The permittee shall cease any non-stormwater discharge upon receipt of written notification from DEP/CCD that the discharge is not authorized under the permit.

E. Off-Site Support Activities.

The permittee may utilize only those off-site support activities meeting the following criteria:

1. The off-site support activities have been identified in the application.

2. If the off-site support activities have not been identified in the application, the permittee has notified DEP/CCD of the identification of the off-site support activities, and DEP/CCD has approved a minor amendment of the permittee's coverage under this permit.

3. A written E&S Plan has been developed for the off-site support activities if earth disturbance is greater than or equal to 5,000 square feet, and E&S BMPs are implemented and maintained. The permittee shall submit a copy of the E&S Plan, if applicable, to DEP/CCD upon request.

F. Discharges to Non-Surface Waters.

The permittee shall ensure that E&S and PCSM BMPs are installed and maintained for all discharges to non-surface waters, including but not limited to swales, ditches, and the ground surface.

G. Corrective Action.

1. The permittee shall identify all deficiencies in E&S or PCSM Plan implementation on Visual Site Inspection Reports and document the corrective action that will be taken to mitigate the deficiency.

2. The permittee shall implement corrective action immediately upon becoming aware of any deficiency that results in an incident causing or threatening pollution to waters of the Commonwealth, and shall notify DEP in accordance with Part A III.D.1 of this permit. For all other deficiencies, the permittee shall implement corrective action as soon as possible but no later than seven (7) days following identification of the deficiency, unless otherwise approved by DEP/CCD.

H. Archaeological Specimens.

The permittee and its agents shall visually inspect for archaeological specimens, as the term is defined in the Pennsylvania State History Code (37 Pa. C.S.A. § 103) during earth disturbance activities, and shall immediately cease earth disturbance activities upon discovery of archaeological specimens. Upon discovery the permittee shall immediately notify DEP/CCD and the Pennsylvania Historical and Museum Commission (PHMC) (Phone: (717) 783-8947).

I. Threatened and Endangered Species Protection.

1. 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.

2. 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.

3. 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.

J. Wetland Protection.

If hydric soils or other wetland features are present on the project site, the permittee shall conduct a wetland determination in accordance with DEP procedures. A copy of that wetland determination must be provided to DEP/CCD as an attachment to the application, and all wetlands must be identified on the E&S Plan and PCSM Plan. Special precautions must be taken to protect wetlands and other water resources identified in the application, plans, and other supporting documents during earth disturbance activities.

K. Infiltration BMPs.

Where infiltration BMPs are being utilized, the permittee and co-permittee must ensure that soil compaction is avoided or minimized in those areas. If the areas planned for infiltration BMPs are compromised through compaction or other means, additional soil testing must be performed to verify that the BMP will perform as planned.

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