



**PAG-02
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO: PAC150395

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251 – 1387 and Pennsylvania’s Clean Streams Law, as amended, 35 P.S. §§ 691.1 – 691.1001,

Permittee
Green Fig Land, LLC
10 Woodford Lane
Malvern, PA 19355

is authorized to discharge from a project site known as The Data Centers, located in East & West Whiteland Townships, Chester County to Valley Creek in accordance with the effluent limitations, monitoring and reporting requirements, best management practices (BMPs), stormwater control measures (SCMs) and other conditions set forth in Parts A, B, and C herein.

APPROVAL OF COVERAGE TO DISCHARGE UNDER THIS GENERAL NPDES PERMIT IS AUTHORIZED BEGINNING ON **DECEMBER 8, 2024** AND WILL EXPIRE ON **DECEMBER 7, 2029**. WHEN THE GENERAL PERMIT IS RENEWED, REISSUED OR MODIFIED, THE FACILITY OR ACTIVITY COVERED BY THE APPROVAL FOR COVERAGE MUST COMPLY WITH THE FINAL RENEWED, REISSUED OR MODIFIED GENERAL PERMIT.

Coverage and authorization to discharge under the PAG-02 NPDES General Permit (“General Permit”) are subject to the following conditions:

1. The permittee’s Notice of Intent (NOI), Erosion and Sediment Control (E&S) Plan, and Post-Construction Stormwater Management (PCSM) Plan are incorporated into this approval of coverage.
2. If there is a conflict between the requirements in the NOI or its supporting documents and the terms and conditions of the General Permit, the permittee must comply with the terms and conditions of the General Permit.

The permittee’s failure to comply with the terms, conditions, and effluent limitations of the General Permit is grounds for the Department of Environmental Protection (DEP) and/or a delegated county conservation district (CCD) to take an enforcement action, and/or to terminate or revoke coverage under this General Permit.

Coverage under the PAG-02 General Permit is authorized by:

Christian E. Strohmaier
Managing Director
Chester County Conservation District
688 Unionville Road, Suite 200
Kennett Square, PA 19348
610.925.4920

PAG-02
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES OF
STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES

In compliance with the provisions of the Clean Water Act, 33 U.S.C.A. §§ 1251 – 1387, and Pennsylvania's Clean Streams Law, as amended, 35 P.S. §§ 691.1 – 691.1001, DEP hereby authorizes, subject to the terms and conditions contained in this General Permit, the discharge of stormwater associated with construction activities from earth disturbances greater than or equal to one (1) acre, or earth disturbances on any portion, part, or during any stage of, a larger common plan of development or sale that is greater than or equal to one (1) acre.

This General Permit does not apply to earth disturbance activities involving agricultural plowing and tilling, animal heavy use areas, timber harvesting activities, oil and gas exploration, production, processing, treatment, or transmission, or road maintenance activities.

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

1. A complete NOI package (3800-PM-BCW0405b and required attachments) has been submitted, as determined by DEP/CCD, in accordance with the requirements of this General Permit and the NOI Instructions.
2. The applicant has received written approval of coverage under this General Permit, signed by the appropriate DEP/CCD manager or supervisor.
3. The applicant has obtained all other state and local permits and approvals arising out of the earth disturbance activities reported in the NOI, including but not limited to sewage planning approval required by the Pennsylvania Sewage Facilities Act, 35 P.S. §§ 750.1 et seq. (Act 537), if applicable.
4. The permittee has recorded a legal instrument disclosing planned post-construction stormwater management (PCSM) stormwater control measure(s) (SCM(s)) on applicable properties with the Recorder of Deeds and has received written authorization from DEP/CCD to schedule a pre-construction meeting, except as specified in Part C II.B of this General Permit.
5. A pre-construction meeting has been held unless waived by DEP/CCD, in writing.

DEP may deny coverage under this General Permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information in accordance with 25 Pa. Code § 92a.54.

SCOPE

This General Permit is intended to provide NPDES permit coverage for stormwater discharges associated with construction activities in satisfaction of state (25 Pa. Code §§ 92a.1(b) and 102.5(a)) and federal (40 CFR §§ 122.26(b)(14)(x) and 122.26(b)(15)) regulations, if the eligibility requirements have been satisfied.

NOI REQUIREMENTS

Deadlines for NOI

An applicant seeking coverage under this General Permit must submit an administratively complete and acceptable NOI at least 60 days prior to the planned date for commencing any new discharge. Applicants are encouraged to apply as early as possible prior to the planned date for commencing construction and ensure the NOI is complete and technically adequate.

Permittees with existing coverage under the PAG-02 General Permit (effective December 8, 2019) (existing permittees) are required to submit an NOI to remain covered under this General Permit (effective December 8, 2024) by December 7, 2024.

Contents of the NOI

The applicant must submit the information and attachments required by this General Permit, the NOI Checklist (3800-PM-BCW0405c), and the NOI form provided by DEP (3800-PM-BCW0405b for new and amended coverage or 3800-PM-BCW0405h for renewal of coverage) and sign the NOI in accordance with the requirements of 25 Pa. Code § 92a.22 (relating to signatories to permit applications and reports) and 40 CFR § 122.22.

Where to Submit the NOI

Applicants must submit complete PAG-02 NOI packages as specified in the PAG-02 NOI Checklist (3800-PM-BCW0405c) including applicable fees to DEP/CCD as follows:

- For a project located in a single county, submit the NOI package to the appropriate CCD for the county, unless the project is located in Forest or Philadelphia counties, in which the NOI package should be submitted to DEP's Northwest or Southeast regional offices, respectively.
- For projects located in two counties, submit the NOI package to the appropriate CCD for the county with the greatest amount of earth disturbance, unless that county is Forest or Philadelphia, in which case the NOI package should be submitted to DEP's Northwest or Southeast regional offices, respectively.
- For projects located in more than two counties but within the jurisdiction of the same DEP regional office, submit the NOI package to the appropriate DEP regional office.
- For projects located in more than two counties that are also in the jurisdictions of two or more DEP regional offices, submit the NOI package to DEP's Regional Permit Coordination Office in Harrisburg (visit www.dep.pa.gov, select "Regional Resources and Contacts" and "Regional Permit Coordination Office").

For CCD mailing addresses, consult the Pennsylvania Association of Conservation Districts, Inc. (PACD) website at www.pacd.org, select "Your District" and "Find Your Conservation District." DEP regional office jurisdictions and mailing addresses can be found at www.dep.pa.gov (select "Regional Resources").

DISCHARGES AUTHORIZED BY THIS GENERAL PERMIT

1. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity as defined at 25 Pa. Code § 92a.2.
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 Pennsylvania's Clean Streams Law that are associated with construction activity.
3. Stormwater discharges from off-site construction support activities (off-site support activities) including temporary 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, and it does not 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.
4. Non-stormwater discharges that are authorized by this General Permit.

DISCHARGES NOT AUTHORIZED BY THIS GENERAL PERMIT

The following discharges are not authorized under this General Permit, and DEP/CCD will deny coverage under this General Permit when one or more of the following conditions exist:

1. Stormwater discharges that, individually or in combination with other similar discharges, are or have the potential to be a contributor of pollution, as defined in the Pennsylvania Clean Streams Law, which are more appropriately controlled under an individual permit. (25 Pa. Code § 92a.54(e)(1))
2. Stormwater discharges which are not, or will not be, in compliance with any of the terms or conditions of this General Permit. (25 Pa. Code § 92a.54(e)(2))
3. Stormwater discharges for which the applicant 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 DEP/CCD. (25 Pa. Code § 92a.54(e)(3))
4. Stormwater discharges that contain pollutants for which a change has occurred in the availability of demonstrated technology or practices for the control or abatement of the pollutants. (25 Pa. Code § 92a.54(e)(4))
5. Categorical point source effluent limitations are promulgated by the U.S. Environmental Protection Agency (EPA) for those point sources covered by this General Permit where such limitations are not incorporated into this General Permit. (25 Pa. Code § 92a.54(e)(5))
6. Stormwater discharges which do not, or will not, result in compliance with applicable effluent limitations or water quality standards. (25 Pa. Code § 92a.54(e)(6))
7. Stormwater discharges from a project site for which an individual permit is required for other point source discharges, and issuance of both an individual permit and authorization for coverage under a General Permit for the project site would constitute an undue administrative burden on DEP. (25 Pa. Code § 92a.54(e)(7))
8. Stormwater discharges that DEP determines require an individual NPDES permit to ensure compliance with the federal Clean Water Act, Pennsylvania's Clean Streams Law, or DEP regulations. (25 Pa. Code § 92a.54(e)(8))
9. Stormwater discharges directly to surface waters, including wetlands, with a designated or existing use of High Quality Waters (HQ) or Exceptional Value Waters (EV) pursuant to 25 Pa. Code Chapter 93 (relating to water quality standards). (25 Pa. Code § 92a.54(e)(9))
10. Stormwater discharges containing toxic or hazardous pollutants as defined in sections 307 and 311 of the Clean Water Act (33 U.S.C. §§ 1317 and 1321), 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. (25 Pa. Code § 92a.54(a)(5))
11. Stormwater discharges that individually or cumulatively have the potential to cause or contribute to a violation of an applicable water quality standard established under 25 Pa. Code Chapter 93 (relating to water quality standards) or cause significant adverse environmental impact. (25 Pa. Code § 92a.54(a)(7))
12. Stormwater discharges associated with coal mining or noncoal mining activities pursuant to DEP's regulations at 25 Pa. Code Chapters 77 and 86-90.
13. Stormwater discharges associated with a construction activity that may adversely affect a Pennsylvania or federal endangered or threatened species or its critical habitat. (25 Pa. Code § 92a.12(c))
14. Stormwater discharges to surface waters identified as waters impaired for siltation; turbidity; Total Suspended Solids (TSS); algae; eutrophication; nutrients; flow regime modification; and/or habitat alterations in DEP's latest published Integrated Water Quality Monitoring and Assessment Report (Integrated Report) most recently approved by EPA unless the discharges will be managed with a non-discharge alternative or Antidegradation Best Available Combination of Technologies (ABACT) best management practices (BMPs).

15. Stormwater discharges to surface waters that are covered by an EPA-approved or EPA-established Total Maximum Daily Load (TMDL), including discharges to waters tributary to the Chesapeake Bay, in which the pollutants of concern include siltation; turbidity; TSS; algae; eutrophication; nutrients; flow regime modification; and/or habitat alterations, unless the discharges will be managed with a non-discharge alternative or ABACT BMPs. In addition, if a specific waste load allocation (WLA) has been established that would apply to the discharge, the permittee must implement necessary steps to meet that allocation.
16. Stormwater discharges to municipal separate storm sewer systems (MS4s) and combined sewer systems (CSSs) without the written consent of the MS4 or CSS owner unless those discharges will result in no net increase (pre-condition to post-condition) in volume, rate, or water quality.

**THE AUTHORITY GRANTED BY THIS GENERAL PERMIT IS SUBJECT TO THE
FOLLOWING CONDITIONS:**

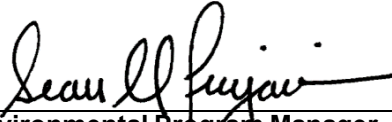
1. DEP may require a permittee with discharges authorized by this General Permit to apply for and obtain an individual NPDES permit by notifying the permittee in writing that an individual NPDES permit application is required. Any interested person may petition DEP to require an individual NPDES permit for a discharge authorized under this General Permit.

DEP's notice that an individual permit application is required will include the following:

- A brief statement of the reasons for this decision;
 - An individual NPDES permit application form;
 - A deadline for the owner or operator to submit the application;
 - A statement that the permittee's failure to submit an individual NPDES permit application by the required deadline will result in termination of the permittee's authorization to discharge under this General Permit; and
 - A statement that on the effective date of the individual permit, coverage under this General Permit will automatically terminate.
2. Any person authorized to discharge by this General Permit may request to be excluded from the coverage of this General Permit by applying for an individual NPDES permit.
 3. This General Permit does not authorize the discharge of any waste streams other than stormwater associated with construction activities and authorized non-stormwater discharges listed in Part C I.B.
 4. When DEP issues an individual NPDES permit for one or more discharges covered by this General Permit, the applicability of this General Permit is automatically terminated on the effective date of the individual permit. If DEP denies an individual permit for a discharge covered by this General Permit, DEP will advise in writing as to whether the discharger is authorized or is not authorized to continue discharging under this General Permit.
 5. This General Permit is effective for a term not to exceed five (5) years and will expire on the date specified below. If DEP modifies this General Permit during its current term, a permittee with approved coverage under this General Permit may, upon submission of an NOI, continue to discharge in accordance with the terms and conditions of the modified General Permit. If DEP reissues this General Permit, a permittee with approved coverage under this General Permit must submit an NOI to continue coverage under the reissued General Permit when notified by DEP.
 6. To modify or reissue this General Permit, DEP will publish a notice in the *Pennsylvania Bulletin* of a draft General Permit and provide a 30-day public comment period. After the comment period, DEP will publish notice of the final modified or reissued General Permit in the *Pennsylvania Bulletin*. The permittee must submit an NOI to continue discharging under this General Permit when notified by DEP and must comply with the final modified or reissued General Permit. If the permittee is unable to comply with the modified or reissued General Permit, the permittee must submit an application for an individual permit within 90 days of publication of the final General Permit. (25 Pa. Code § 92a.84)

7. If a discharge approved for coverage under this General Permit subsequently exhibits a condition that renders the discharge ineligible for coverage (see "Discharges Not Authorized by this General Permit", above), the permittee must take action to restore eligibility, to notify DEP in writing of the condition, and, if eligibility cannot be restored, to submit an individual NPDES permit application to DEP. DEP will terminate coverage under this General Permit if potential or actual adverse impacts to water quality occur as a result of the permittee's discharge.
8. No condition of this General Permit releases the permittee from any responsibility or requirements under other federal or Pennsylvania environmental statutes or regulations or local ordinances.

General Permit (PAG-02) Issued

By: 
Environmental Program Manager
Bureau of Clean Water

Effective: December 8, 2024

Expires: December 7, 2029

PART A

EFFLUENT LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS

I. EFFLUENT LIMITATIONS

- A. This General Permit establishes effluent limitations through the implementation of BMPs, including E&S BMPs and PCSM SCMs, to reduce the discharge of pollutants in stormwater discharges associated with construction activities. All stormwater discharges must comply with all applicable requirements established in accordance with 25 Pa. Code Chapters 91-96, 102, and 105 of DEP's rules and regulations. Permittees must implement BMPs exceeding those identified in approved E&S and PCSM Plans to protect and maintain water quality when notified in writing to do so by DEP/CCD.
- B. BMPs and SCMs.
1. The permittee must design, install, and maintain E&S BMPs and PCSM SCMs, as identified in the approved E&S and PCSM Plans, respectively, to minimize the discharge of pollutants. At a minimum, such BMPs and SCMs 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 E&S BMPs 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 SCMs utilizing infiltration to manage stormwater is proposed. If the areas planned for infiltration SCMs are compromised through compaction or other means, the permittee must conduct soil testing to verify that the SCM 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. Site 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 four (4) days, the site must be immediately seeded, mulched, or otherwise protected 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 must 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 must immediately have topsoil restored, replaced, or amended, seeded, mulched or otherwise permanently stabilized and protected from accelerated erosion and sedimentation.
 - (i) E&S BMPs must be implemented and maintained until the permanent stabilization is completed. Once permanent stabilization has been established, the temporary E&S BMPs must be removed or converted to PCSM SCMs. Any areas disturbed in the act of removing temporary E&S BMPs must be permanently stabilized upon completion of the temporary E&S BMP removal or conversion activity.
 - (ii) For an earth disturbance activity or any stage or phase of an activity to be considered permanently stabilized, the disturbed areas must 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 may not utilize seed mixtures containing invasive species or species that may be harmful to native plant communities.
- 3. 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. The permittee must utilize upland vegetated areas of the project site to infiltrate construction dewatering water prior to discharge, to the extent feasible.
 - b. For construction dewatering water that cannot be infiltrated in accordance with paragraph 3.a, above, construction dewatering water must be treated by an approved series of two or more BMPs prior to discharge to surface waters to reduce discharges with visual turbidity, unless the permittee can document that the outflow from a single BMP will achieve a turbidity of 50 Nephelometric Turbidity Units (NTUs) or less and receives written approval from DEP/CCD.
 - c. The permittee must notify in writing DEP/CCD at least seven (7) days prior to discharges if the permittee has reason to believe that dewatering water may contain pollutants other than sediment. The permittee must collect sample(s) of the dewatering water and analyze the water for the pollutants specified by DEP/CCD when notified by DEP/CCD in writing. If the dewatering water is found by the permittee or DEP/CCD to contain concentrations of pollutants exceeding numeric water quality criteria under Chapter 93 or may otherwise adversely affect surface waters, DEP/CCD may require the permittee to cease discharging and submit an application for an individual permit.
 - d. The permittee must 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.
 - e. The permittee must 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 must 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. Prevent the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated or otherwise controlled 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. Prevent the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures. The permittee must 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 must be available upon request by DEP/CCD. (25 Pa. Code § 102.5(l))

5. The permittee may not discharge the following:
 - a. Wastewater from washout of concrete. (25 Pa. Code § 102.11(c))
 - b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials. (25 Pa. Code § 102.11(c))
 - d. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance. (25 Pa. Code § 102.11(c))
 - e. Soaps or solvents used in vehicle and equipment washing. (25 Pa. Code § 102.11(c))
 - f. Floating solids, scum, sheen or substances that result in observed deposits in the receiving water, and 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))
 - g. 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))

II. DEFINITIONS

Antidegradation Best Available Combination of Technologies (ABACT) means environmentally sound and cost-effective treatment, land disposal, pollution prevention and stormwater re-use BMPs that individually or collectively manage the difference in the net change in stormwater volume, rate, and quality for storm events up to and including the 2 year/24 hour storm when compared to the stormwater rate, volume, and quality prior to the earth disturbance activities to maintain and protect the existing quality of the receiving surface waters of this Commonwealth. (25 Pa. Code § 102.1)

Accelerated Erosion means 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. (25 Pa. Code § 102.1)

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 of this Commonwealth before, during, and after earth disturbance activities. (25 Pa. Code § 102.1)

Clean Fill means uncontaminated, nonwater-soluble, nondecomposable, inert solid material used to level an area or bring an area to grade. The term does not include materials placed in or on the waters of the Commonwealth. Although the placement of clean fill in or on waters of the Commonwealth cannot be managed under this policy, placement of clean fill in or on waters of the Commonwealth may be approved under a separate DEP authorization. The term includes only those materials that are identified as “fill,” as the term is defined in this policy. 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 this policy.

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

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

Combined Sewer System means a sewer system that has been designed to serve as both a sanitary sewer and a storm sewer. (25 Pa. Code § 92a.2)

Co-Permittee means a person identified on the Authorization to Discharge page of this General 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 terms and conditions of this General Permit and applicable laws.

County Conservation District (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)

Critical Stages means the installation of underground treatment BMPs, structurally engineered BMPs, or other BMPs or components thereof as deemed appropriate by DEP or a CCD and that require the oversight of a licensed professional or designee.

DEP means the Department of Environmental Protection.

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)

Designee means a licensed professional as defined in this General Permit or someone acting on behalf of a licensed professional who has knowledge, skill, experience, training and education in the field of engineering, landscape architecture, geology, or land surveying that is beyond that possessed by a layperson and upon which a licensed professional can rely upon to provide oversight of critical stages of PCSM Plan implementation. A

designee must be independent from the operator co-permittee(s) responsible for the construction or installation of SCMs on a project site.

Dewatering means the act of draining accumulated stormwater and/or groundwater from building foundations, vaults, and trenches, or other similar points of accumulation.

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 visual property inspections, electronic database searches, review of ownership and use history of property, Sanborn maps, environmental questionnaires, transaction screens, analytical testing, and environmental assessments or audits.

EPA means the United States Environmental Protection Agency.

Erosion means the natural process by which the surface of the land is worn away by water, wind, or chemical action. (25 Pa. Code § 102.1)

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

Impaired Waters means surface waters that fail to attain one or more of its designated uses under 25 Pa. Code Chapter 93 and is listed in Categories 4 and 5 of Pennsylvania's Integrated Report.

Integrated Water Quality Monitoring and Assessment Report (Integrated Report) means DEP's report on the conditions of Pennsylvania's surface waters to satisfy Sections 305(b) and 303(d) of the Clean Water Act when approved by EPA.

Intermittent stream means a body of water flowing in a channel or bed composed primarily of substrates associated with flowing water which, during periods of the year, is below the local water table and obtains its flow from both surface runoff and groundwater discharges. (25 Pa. Code § 102.1)

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)

Infiltration-based SCM means an SCM that principally functions by allowing stormwater to infiltrate through the bottom and/or sides of the SCM to the subsurface environment.

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

Long-Term Operation and Maintenance (O&M) means the routine inspection, maintenance, repair, or replacement of a BMP to ensure proper function for the duration of time that the BMP is needed. (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 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. (25 Pa. Code § 102.1)

Notice of Intent (NOI) means a request, on a form provided by DEP, for coverage under a General NPDES Permit for Discharges of Stormwater Associated with Construction Activities. (25 Pa. Code § 102.1)

Notice of Termination (NOT) – A request, on a form provided by DEP, to terminate coverage under a General NPDES Permit for Discharges of Stormwater Associated with Construction Activities. (25 Pa. Code § 102.1)

Non-discharge 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. (25 Pa. Code § 102.1)

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

Off-Site Construction Support Activities or Off-Site Support Activities means activities providing support for construction and earth disturbance activities covered by this General 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 or Operator Co-Permittee 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)

Owner means a person who holds the legal title to the land subject to construction activity. This term also includes the person who held legal title to the land subject to construction activity at the time such activity was commenced on a site.

PCSM SCM means an SCM that is designed and implemented to satisfy the requirements of 25 Pa. Code § 102.8(g).

Perennial stream means a body of water flowing in a channel or bed composed primarily of substrates associated with flowing waters and capable, in the absence of pollution or other manmade stream disturbances, of supporting a benthic macro-invertebrate community which is composed of two or more recognizable taxonomic groups of organisms which are large enough to be seen by the unaided eye and can be retained by a United States Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system. (25 Pa. Code § 102.1)

Permittee means a person who has coverage under this General Permit.

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

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" may not exclude the members of an association and the directors, officers, or agents of a corporation. (25 Pa. Code § 102.1)

Point Source means any discernable, 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 Facility (CAAP), 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)

Post-Construction Stormwater means stormwater associated with a project site after the earth disturbance activity has been completed and the project site is permanently stabilized.

Post-Construction Stormwater Management Plan (PCSM Plan) 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 Plan (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 the earth disturbance activity; (ii) the area planned for the earth disturbance activity; and (iii) Other areas which are not subject to earth disturbance activity. (25 Pa. Code § 102.1)

Record Drawings means drawings that wholly and accurately depict as-built conditions of a project site following completion of an earth disturbance activity including but not limited to land covers, structures, grades, and SCMs and components thereof.

Regulated Fill means fill, as the term is defined in DEP's Management of Fill Policy (DEP ID No. 258-2182-773), that has been affected by release of a regulated substance and is not "uncontaminated material," as the term is defined in this policy. The term does not include fill that has been blended, mixed or treated with the purpose of meeting the definition of "regulated fill" and that without being blended, mixed or treated would fail to meet the regulated fill concentration limits, as the term is defined in this policy.

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)

Stormwater Control Measure (SCM) means any natural feature or manmade structure designed or utilized to reduce or manage the volume, pollutant load, and/or the peak rate of stormwater runoff. SCMs are BMPs that are implemented to treat stormwater from impervious surfaces and/or post-construction stormwater.

Structural PCSM SCM means a PCSM SCM that is a manmade structure used to manage post-construction stormwater, including but not limited to infiltration-based SCMs.

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)

Total Maximum Daily Load (TMDL) means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality, and a margin of safety expressed in terms of mass per time, toxicity, or other appropriate measures. (25 Pa. Code § 96.1)

Toxic Pollutant (Toxics) 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)

Waste Load Allocation (WLA) means the portion of a surface water's loading capacity that is allocated to existing and future point source discharges. (25 Pa. Code § 96.1)

Waters of this Commonwealth means 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. (25 Pa. Code § 102.1)

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)

III. MONITORING, REPORTING, AND RECORDKEEPING

- A. When stormwater samples are collected and analyzed or measurements are taken under this General Permit, the permittee must ensure:
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 analyses.
 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 must retain all records of monitoring activities and results, copies of all plans and reports required by this General Permit, and records of all data used to complete the NOI for this General Permit for at least three (3) years from the date of the Notice of Termination (NOT) approval. The permittee must submit such records to DEP/CCD or EPA upon request. (25 Pa. Code § 92a.3(c) and 40 CFR § 122.41(j)(2))
 2. The permittee must retain a physical or electronic copy of the following documents on-site during earth disturbance activities at all times, and must make this information available for review and inspection by DEP/CCD or EPA during all stages of the earth disturbance activity: this General Permit, the NOI form submitted for General Permit coverage, all attachments to the NOI form, and the E&S Plan, PCSM Plan, and PPC Plan, as applicable.
- C. Inspection and Oversight Requirements. (25 Pa. Code § 102.4(b)(5)(x))
1. Site Inspections – The permittee must conduct visual site inspections throughout the duration of construction and until the NOT has been approved by DEP/CCD (unless otherwise approved in writing by DEP/CCD), at the following frequencies:
 - Routine Inspections must be conducted weekly.
 - Post-Storm Event Inspections must be conducted within 24 hours after the conclusion of each measurable storm event (i.e., precipitation in an amount of 0.25 inch or greater over a 24-hour period) or the occurrence of snowmelt sufficient to cause a discharge.
 - Corrective Action Inspections must be conducted anytime the permittee observes a deficiency in implementation of the E&S or PCSM Plans.
 - a. The permittee must 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 as instructed. The permittee must take color photographs of E&S BMPs and PCSM SCMs on the project site at least monthly, unless otherwise approved in writing by DEP/CCD, and when deficiencies in BMPs and SCMs are identified. The photographs must have a date and time stamp and be made available for DEP/CCD review upon request.

- b. The permittee must make Visual Site Inspection Reports available upon request during inspections, submit and provide copies of Visual Site Inspection Reports to DEP/CCD upon request, and submit Visual Site Inspection Reports to DEP/CCD as part of the notification requirements identified in Paragraph III.D.2, below.
- c. Effective December 8, 2025, site inspections must be performed and Visual Site Inspection Reports must be completed by qualified personnel that are trained and experienced in E&S and PCSM BMP construction, function, and maintenance and are familiar with the E&S and PCSM Plans for the project site. A person is qualified when one or more of the following conditions are satisfied:
 - (i) They have completed the Qualified Site Inspector Training Program in DEP's Clean Water Academy initially and every two years thereafter;
 - (ii) They hold active certification as a Certified Professional in Erosion and Sediment Control (CPESC) or as a Certified Erosion, Sediment, and Stormwater Inspector (CESSWI) from a recognized organization; or
 - (iii) They can demonstrate to the satisfaction of DEP/CCD that they have qualifications equivalent to or exceeding those identified in Paragraphs (i) or (ii). If this option is selected, the person must submit documentation of their training and experience to DEP/CCD and receive written approval from DEP/CCD prior to conducting site inspections, unless waived by DEP/CCD.

For site inspectors satisfying Paragraph (i) or (ii), the permittee must provide documentation (e.g., completion certificate) of the inspector's qualifications upon the request of DEP/CCD.

- d. To determine if a storm event of 0.25 inch or greater has occurred on a project site, the permittee must 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. The permittee must ensure that a licensed professional or a designee is present on-site and is responsible for oversight of critical stages of implementation of approved PCSM SCMs, unless the project meets the requirements of 25 Pa. Code § 102.8(n) and does not include PCSM SCMs. The critical stages that must receive licensed professional oversight are identified in the approved PCSM Plan.
 - b. The permittee must document the implementation of each structural PCSM SCM using DEP's SCM Construction Certification Form (3800-FM-BCW0271j) and submit the completed form to DEP/CCD within 30 days of the completion of SCM construction, as determined by a licensed professional. The form must be signed by the licensed professional responsible for oversight of critical stages.

D. Reporting Requirements

1. Annual Report. (25 Pa. Code § 92a.61(g))
 - a. The permittee must submit a complete Annual Report to the office of DEP/CCD that approved General Permit coverage by December 7 each year using DEP's Annual Report template (3800-PM-BCW0405e). The Annual Report must address activities under this General Permit for the reporting period of October 1 – September 30.
 - b. For existing permittees, the first Annual Report is due by December 7, 2025 and the reporting period is October 1, 2024 – September 30, 2025. Thereafter the reporting period is October 1 – September 30, and the Annual Report is due December 7.
 - c. For new permittees, the first Annual Report is due by December 7 following the first full year of General Permit coverage and the reporting period is the effective date of General Permit coverage to September 30 following the first full year of General Permit coverage. Thereafter the reporting period is October 1 – September 30, and the Annual Report is due December 7.

- d. The permittee must submit the Annual Report to DEP/CCD in electronic format upon receipt of written notification from DEP/CCD.
2. Unanticipated Non-Compliance or Potential Pollution Reporting
 - a. Immediate Reporting – The permittee must 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:
 - (i) If, because of an accident or 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 must immediately notify DEP by telephone of the location and nature of the danger. Verbal 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. Emergency response phone numbers for DEP are available on DEP's website (www.dep.pa.gov, select "Report an Incident").
 - (ii) The permittee must immediately notify known downstream users of the waters of the Commonwealth to which the substance was discharged if notice is reasonably possible. Notice must include the location and nature of the danger.
 - (iii) The permittee must 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, must 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.
 - b. The permittee must 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) (incorporated by 25 Pa. Code § 92a.3(c)). These requirements include the following obligations:
 - (i) 24-Hour Reporting – The permittee must verbally report any non-compliance with this permit to DEP/CCD that may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances.
 - (ii) Written Report – A written submission must also be provided to DEP/CCD within five (5) days of the time the permittee becomes aware of any non-compliance that may endanger health or the environment. The written submission must 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. The written submission must include a Visual Site Inspection Report that documents the incident.
 - (iii) Waiver of Written Report – DEP/CCD may waive the written report on a case-by-case basis if the associated verbal report has been received within 24 hours from the time the permittee becomes aware of the circumstances that may endanger health or the environment. Unless such a waiver is expressly granted in writing by DEP/CCD, the permittee must submit a written report in accordance with this paragraph.

3. Other Non-Compliance

The permittee must identify all instances of non-compliance not reported under paragraph D.2.b of this section on the Visual Site Inspection Report. The reports must contain the information listed in paragraph D.2.b.(ii) of this section. (25 Pa. Code § 92a.3(c) and 40 CFR § 122.41(l)(7))

E. Signatory Requirements.

1. NOIs, reports, and other information submitted to DEP/CCD must be signed and certified by either of the following applicable persons, in accordance with 40 CFR § 122.22 (incorporated by 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 NOI 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 project site, 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 must 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 project site or activity. An NOI 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))

This may include:

- a. The construction of additional impervious surfaces not reported in the NOI.
 - b. Increases in earth disturbance compared to the original planned limit of disturbance.
 - c. Modifications to the design standards, BMPs, or SCMs used for the project.
 - d. Proposals to eliminate structural or non-structural BMPs or SCMs planned for in the original design or reduce the dimensions and/or capacities of structural BMPs or SCMs 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/CCD may require additional monitoring where an increased risk of potential water pollution is present, or water pollution is suspected to be occurring from a construction activity subject to this General Permit, or for any reason in accordance with 25 Pa. Code § 92a.61 (relating to monitoring). The permittee or co-permittee must commence such monitoring upon notification from DEP/CCD. (25 Pa. Code § 92a.61(b))

PART B

STANDARD CONDITIONS

I. MANAGEMENT REQUIREMENTS

A. Compliance

The permittee must comply with all conditions of this General Permit. Any General 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 NOI. (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 General 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 General Permit, the permittee must 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 General Permit for the reasons specified at 40 CFR § 122.64(a). (25 Pa. Code §§ 92a.74(c) and 40 CFR § 122.64(a))

C. Requirement to Submit NOT (25 Pa. Code §§ 102.7, 92a.74(c), 92a.76 and 40 CFR § 122.64(c))

The permittee or a co-permittee must submit a complete NOT form to the DEP/CCD office that approved coverage, utilizing DEP's NOT for Chapter 102 Permits form (3800-PM-BCW0229b), when the project site has been permanently stabilized, all temporary E&S BMPs have been removed, and construction of all approved PCSM SCMs have been completed, in accordance with 25 Pa. Code § 102.7. An operator co-permittee may submit the NOT only when documentation is provided with the NOT that the permittee or co-permittee is unable or unwilling to sign the NOT.

1. The permittee or co-permittee must submit the NOT electronically when required by DEP in writing.
2. The permittee or co-permittee must continue complying with the terms and conditions of this General Permit until the NOT is approved by DEP/CCD.
3. Until the permittee or co-permittee has received written approval of the NOT from DEP/CCD, the permittee or co-permittee remains responsible for compliance with this General Permit terms and conditions, including the submission of annual reports and long-term operation and maintenance (O&M) of all PCSM SCMs on the project site in accordance with 25 Pa. Code § 102.8(m).
4. The permittee must retain a copy of record drawings required by 25 Pa. Code § 102.8(l) as part of the approved PCSM Plan and must provide a copy of the record drawings to the persons identified as responsible for the long-term O&M of PCSM SCMs.

D. Duty to Provide Information

1. The permittee must provide 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 General Permit, or to determine compliance with this General Permit. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(h))

2. The permittee must provide to DEP/CCD copies of records required to be kept by this General Permit upon request. (25 Pa. Code §§ 92a.3(c), 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 NOI or submitted incorrect information in an NOI or in any report to DEP/CCD, it must promptly submit the correct and complete facts or information. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(l)(8))

E. Proper Operation and Maintenance (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(e))

1. The permittee must 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 General Permit. Proper operation and maintenance includes adequate laboratory controls such as appropriate quality assurance procedures. The permittee must 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 General Permit.
2. Removed Substances – Solids, sediments, and other pollutants removed in the course of treatment or control of stormwater must be disposed of in accordance with federal and state law and regulations, to prevent any pollutant in these materials from adversely affecting public health or the environment.
3. Reduction, Loss, or Failure of BMP or SCM – Upon the reduction, loss, or failure of any E&S BMP or PCSM SCM, the permittee and co-permittee(s) must initiate the repair or replacement of the BMP or SCM as follows:
 - Immediately upon discovery if the reduction, loss, or failure of a BMP or SCM has resulted in or is likely to result in sediment or other pollutants flowing off the project site and/or discharging to surface waters. Completion of the repair or replacement of the BMP or SCM must occur within 24 hours unless otherwise required by DEP/CCD.
 - Within 24 hours of discovery for all other situations where there is a reduction, loss, or failure of a BMP or SCM. Completion of the repair or replacement of the BMP or SCM must occur within seven (7) days unless otherwise required by DEP/CCD.

F. Duty to Mitigate

The permittee must 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.3(c), 92a.41(a) and 40 CFR § 122.41(d))

II. PENALTIES AND LIABILITY

A. Violations of Permit Conditions

DEP 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 law against a permittee that violates any condition or limitation of this General Permit, or any rule, regulation or order issued by DEP pursuant to the Clean Streams Law.

In addition, EPA may take an enforcement action to restrain violations, to impose criminal or civil penalties, or to seek other remedies or relief as authorized by the Clean Water Act against a permittee that violates any condition or limitation of this General Permit, or any rule, regulation or order issued by EPA pursuant to the Clean Water Act.

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.3(c), 92a.41(c))

- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this General Permit, or
- Knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit (including monitoring reports or reports of compliance or non-compliance)

C. Liability

Nothing in this General Permit will 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 General Permit will 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 General Permit. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR § 122.41(c))

III. OTHER RESPONSIBILITIES

A. Right of Entry

The permittee must 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 305, 25 Pa. Code §§ 92a.3(c), 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 General 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 General 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 General Permit; and (40 CFR § 122.41(i)(3))
4. To sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act or the Clean Streams Law, any substances or pollutants 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 identified on the General Permit NOI form as the applicant) decides to transfer General Permit coverage to another person prior to submission of an NOI to terminate coverage, the permittee must 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 form ([3800-PM-BCW0041](#)) (Transfer Application). General Permit coverage will be transferred automatically to the proposed permittee on the date specified in the Transfer Application if all of the following conditions are satisfied:
 - (i) The Transfer Application is signed by the existing and proposed permittees and contains a specific date for transfer of permit responsibility, coverage and liability between the permittees.
 - (ii) DEP does not notify the existing permittee and the proposed permittee in writing prior to the transfer date of its intent to modify or revoke and reissue this General Permit.
 - (iii) The proposed 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, General Permit coverage may be transferred by the existing permittee to a proposed permittee only if both parties request a modification of General Permit coverage, using the Transfer Application, and DEP/CCD approves the modification or revokes and reissues the General Permit coverage. General Permit coverage may be transferred both during the term of this General Permit and during a period of administrative extension of this General Permit.
- c. In the event DEP/CCD does not approve transfer of this General Permit, the proposed permittee must submit a new NOI.
- d. Transfer of a portion of a project site is not authorized under this General Permit unless otherwise approved by DEP.
- e. If the transfer of General Permit coverage will coincide with a transfer of property containing PCSM SCM(s), the Transfer Application must include a New Property Owner Notification Form (3800-FM-BCW0271i) signed by the existing and proposed permittees.

C. Amending Permit Coverage

The permittee must notify DEP/CCD of any planned change to earth disturbance activities, BMPs, SCMs, or any other change that may affect General Permit coverage, including planned changes identified in Part A III.F of this General Permit, at least 30 days prior to implementing the change. DEP/CCD will notify the permittee whether the submission of an NOI to amend General 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. Property Rights

The approval of coverage under this General Permit does not convey any property rights, or any exclusive privilege. (25 Pa. Code §§ 92a.3(c), 92a.41(a) and 40 CFR 122.41(g))

E. Duty to Reapply

To renew coverage under this General Permit, the permittee must submit a renewal NOI. Permittees seeking to renew coverage under this provision may immediately continue to discharge under this General Permit upon the submission of a timely and complete NOI. (25 Pa. Code §§ 92a.3(c), 92a.41(a), 92a. 54(c)(1) and 40 CFR § 122.41(b))

F. Other Laws

The approval of coverage under this General Permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

PART C

OTHER CONDITIONS

I. GENERAL

- A. The permittee is authorized to discharge stormwater associated with construction activities from its project site, alone or in combination with authorized non-stormwater discharges, at discharge points identified in the NOI submitted for coverage under this General Permit.
- B. Authorized Non-Stormwater Discharges – The following non-stormwater discharges associated with construction activities are authorized under this General 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 that the permittee complies with any applicable requirements for these discharges under the General Permit:
- Discharges from emergency firefighting activities;
 - Potable water – including water line flushings, fire suppression system flushings, and fire hydrant flushings – that does not contain measurable concentrations of Total Residual Chlorine (TRC), and where appropriate control measures are implemented to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention, settlement);
 - Uncontaminated condensate from air conditioners, coolers/chillers, and other compressors (if treatment through an oil/water separator is provided) and from the outside storage of refrigerated gases or liquids;
 - Irrigation and dust control drainage;
 - Landscape water if such water does not contain pesticides, herbicides or fertilizers;
 - Pavement wash waters, other than wash waters used on newly sealed pavement (sealant applied within the prior week), where: no detergents or hazardous cleaning products are used; the wash waters do not come into contact with oil and grease deposits, sources of pollutants associated with industrial activities, or any other toxic or hazardous materials; and appropriate control measures are implemented to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention, settlement);
 - Routine external building washdown or power wash water that does not contain detergents or hazardous cleaning products (e.g., those containing bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols) and where appropriate control measures are implemented to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention, settlement);
 - Uncontaminated ground water or spring water;
 - Foundation or footing drains where flows are not contaminated with process materials; and
 - Construction dewatering water that complies with the construction dewatering discharge requirements of Part A I.B.3 of this General Permit.
- C. The permittee must handle, recycle and/or dispose of building materials and wastes, collected screenings, slurries, sludges, and other solids generated in the course of treatment or control of stormwater runoff in compliance with state and federal law, including the Solid Waste Management Act (35 P.S. §§ 6018.101, et seq.), 25 Pa. Code Chapters 271-285 (relating to municipal waste), 287-299 (relating to residual waste), Chapters 261a, 262a, 263a, and 270a (related to identification of hazardous waste, requirements for generators and transporters, hazardous waste requirements for generators and transporters, and hazardous waste permit programs), the Clean Streams Law, the federal Clean Water Act, and 40 CFR Part 257 (related to criteria for classification of solid waste disposal facilities and practices) and in a manner that prevents any pollutant from such materials from adversely affecting the environment.

The permittee is responsible to obtain or ensure that contracted agents have all necessary permits and approvals for the handling, storage, transport, and disposal of solid waste materials generated as a result of construction activities, stormwater management, and treatment.

II. INITIAL RECORDING

If the approved PCSM Plan includes PCSM SCMs that will be located on non-Commonwealth and non-federal property, the permittee must record a legal instrument with the Recorder of Deeds for each property that will contain SCMs that identifies the planned SCMs, provides access for long-term O&M of the SCMs, and provides notice that the responsibility for long-term O&M of the SCMs is a covenant that runs with the land.

- A. The permittee must provide a copy of the recorded instrument, all attachments or exhibits to the instrument, and proof of recording to DEP/CCD prior to the pre-construction meeting, unless the project is conducted for the benefit of a public utility, as defined in the Public Utility Code (66 Pa.C.S.A. § 102), or otherwise approved by DEP/CCD in writing. The permittee may not schedule the pre-construction meeting or commence the earth disturbance activity until DEP/CCD receives this documentation and determines it is complete. Upon written authorization from DEP/CCD, the permittee may schedule the pre-construction meeting.
- B. For public utility projects and other projects for which written approval is obtained from DEP/CCD to provide the recorded documentation following the pre-construction meeting, the permittee must provide a copy of the recorded instrument, all attachments or exhibits to the instrument, and proof of recording to DEP/CCD within 45 days of receipt of the approval of coverage under this General Permit.
- C. The permittee must record the following documentation under this section:
 1. An instrument that is consistent with DEP's Sample Instrument for the Declaration of Restrictions and Covenants, available on DEP's website (www.dep.pa.gov/constructionstormwater, select E&S Resources).
 2. Approved PCSM Plan Drawing(s) identifying the SCMs or other documentation that identifies the location of the SCMs on the relevant properties; the planned size (length, width, depth) of the SCMs; depictions of the inlet and outlet structures of the SCMs, as applicable; construction materials and media, as applicable; and the planned vegetation for the SCMs, as applicable.
 3. Long-Term O&M Plans for the SCMs, if separate from the documentation in Paragraph II.C.2, above.

III. PRE-CONSTRUCTION MEETING

Upon notification from DEP/CCD that the recorded instrument is complete, if applicable, the permittee must schedule and hold a pre-construction meeting unless the permittee has been notified otherwise in writing by DEP/CCD. The permittee must invite the agency approving coverage under this General Permit to attend the pre-construction meeting and provide at least seven (7) days' notice of the pre-construction meeting to all invited attendees. The permittee must also invite to the pre-construction meeting co-permittees, operators, municipal representative(s), licensed professionals or designees, and all others responsible for implementing or monitoring the earth disturbance activity and implementation of E&S, PCSM and PPC Plans and critical stages of implementation of the approved PCSM Plan.

IV. NOTIFICATION OF PERIMETER CONTROL BMPs

Upon the installation of all perimeter sediment control BMPs and at least three (3) days prior to proceeding with the bulk earth disturbance activities, the permittee or co-permittee shall provide notification to DEP or CCD by phone or electronic mail.

V. E&S PLANS

- A. The permittee must implement an approved 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 General Permit.
- B. The E&S Plan, including construction sequencing and O&M of BMPs, must be implemented at all times.
- C. The permittee must make the approved E&S Plan available for review and inspection by DEP/CCD and EPA during all stages of earth disturbance activities.

VI. PCSM PLANS

- A. The permittee must implement an approved PCSM Plan that meets the requirements of 25 Pa. Code § 102.8 and contains PCSM SCMs that will be designed, implemented and maintained to achieve the effluent limitations set forth in Part A of this General Permit.

- B. The PCSM Plan, including construction sequencing and O&M of SCMs, must be implemented at all times.
- C. The permittee must make the approved PCSM Plan available for review and inspection by DEP/CCD and EPA during all stages of earth disturbance activities.

VII. LONG-TERM OPERATION AND MAINTENANCE OF PCSM SCMs

- A. The permittee or co-permittee is responsible for long-term O&M of PCSM SCMs unless a different person is identified in the NOT and that person has agreed to long-term O&M of PCSM SCMs. A permittee or co-permittee that fails to transfer long-term O&M of the PCSM SCMs or otherwise fails to comply with this requirement remains jointly and severally responsible with the landowner for long-term O&M of the PCSM SCMs located on the property. (25 Pa. Code §§ 102.8(m)(1), 102.8(m)(5))
- B. The permittee or co-permittee must record a final instrument with the Recorder of Deeds for each non-Commonwealth and non-federal property containing PCSM SCMs when changes are made following the initial recording. The instrument must identify the implemented SCMs, provide access for long-term O&M of the PCSM SCMs, and provide notice that the responsibility for long-term O&M for the SCMs is a covenant that runs with the land. The final recording must amend the original recording as referenced in Part C II of this General Permit, as applicable. The permittee or co-permittee must provide a copy of the final instrument, all attachments or exhibits to the instrument, and proof of recording to DEP/CCD with the NOT. The permittee or co-permittee must record the following documentation under this section at a minimum, when applicable:
 - 1. An instrument that is consistent with DEP's Sample Instrument for the Declaration of Restrictions and Covenants, available on DEP's website (www.dep.pa.gov/constructionstormwater, select E&S Resources).
 - 2. Documentation that identifies the location of the SCMs on the relevant properties; the planned size (length, width, depth) of the SCMs; depictions of the inlet and outlet structures of the SCMs, as applicable; construction materials and media, as applicable; and the vegetation for the SCMs, as applicable; or otherwise record drawings as identified at 25 Pa. Code § 102.8(l).
 - 3. Long-Term O&M Plans for the SCMs, if separate from the documentation in Paragraph VII.B.2, above.
- C. If a parcel, lot, road, or other real property containing or planned to contain a PCSM SCM is sold during the term of General Permit coverage, the permittee must provide the new property owner with 1) record drawings or other plans identifying the SCM; 2) a long-term O&M Plan for the SCM; and 3) a completed New Property Owner Notification form (3800-FM-BCW00271i). The permittee must submit copies of completed New Property Owner Notification forms to DEP/CCD and to the municipality where the SCM is located within 30 days of the date of transfer of the property.
 - 1. If a permittee submits to DEP/CCD a New Property Owner Notification form containing the signature of the first owner of a lot containing PCSM SCMs that is acquired from the permittee, the permittee is not obligated to obtain the signatures of any future lot owner unless the permittee failed to record a legal instrument disclosing the PCSM SCMs on the lot.
 - 2. If the new property owner or subsequent property owners enter into an agreement for a separate party to be responsible for long-term O&M and do not disclose this to the permittee, it is not the permittee's responsibility to disclose this to DEP/CCD.
 - 3. If there are increases in impervious area on a lot following its sale, in which a New Property Owner Notification form was submitted, the permittee is not responsible for identifying the increase in impervious area if SCMs were designed to manage the maximum allowable impervious under an ordinance or the planned impervious with a factor of safety of at least 10%.
- D. 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 SCM to a non-Commonwealth or non-federal entity occurs. Upon transfer of the Commonwealth-owned or federally-owned property containing the PCSM SCM, the deed must comply with 25 Pa. Code § 102.8(m). (25 Pa. Code § 102.8(m)(3))

- E. 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 SCMs or to perform long-term O&M and provide notice thereof to DEP/CCD. (25 Pa. Code § 102.8(m)(4))
- F. The recorded instrument must provide for access to the PCSM SCMs in addition to information on inspection, repair, replacement, and routine maintenance to ensure proper function and operation of the PCSM SCMs.
- G. For PCSM SCMs that discharge to an MS4, the permittee must specify in the long-term O&M plan that copies of all inspection reports must be submitted by the person responsible for long-term O&M to the municipality or other entity that owns or operates the MS4.

VIII. PREPAREDNESS, PREVENTION, AND CONTINGENCY PLANS

If toxic, hazardous, or other polluting materials will be on site, the permittee or co-permittee(s) must develop a PPC Plan for use while those materials are on-site in accordance with 25 Pa. Code §§ 91.34 (relating to activities utilizing pollutants) and 102.5(l). The PPC Plan must identify areas which may include 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 non-compliance with the terms and conditions of this General Permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, or concrete wash waters. BMPs must be developed and implemented for each identified area. Names and contact information within the PPC Plan must be kept up to date. The PPC Plan must be made available for review at the request of DEP/CCD.

IX. 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 must 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 must 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 must 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 or operator co-permittee must 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 operator 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 must 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 or operator co-permittee must 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.

X. INFILTRATION SCMs

- A. The permittee must protect the infiltration surface for any area on a project site that will be used for infiltration-based SCMs. The surface must be protected from compaction, fines, and sediment unless it is used as an E&S BMP.
- B. Effective December 8, 2025, the permittee must complete confirmation testing for infiltration capacity to verify that infiltration SCMs will perform as designed anytime 1) the area of an infiltration SCM has not been protected, as determined by a licensed professional or DEP/CCD, and 2) an E&S BMP will be converted to a PCSM SCM and used for infiltration. Confirmation testing is a critical stage of SCM construction that must be overseen by a licensed professional or designee.
- C. Confirmation testing for infiltration capacity may be performed by 1) a simulated runoff test using a ponding depth of no less than six (6) inches within the SCM; 2) inspection during and after a storm event that produces a ponding depth of no less than six (6) inches within the SCM; or 3) infiltration testing using acceptable methods from the Pennsylvania Stormwater BMP Manual (363-0300-002), as amended and updated. The testing or inspection must be performed after major earthwork is complete, after permanent stabilization of the SCM's drainage area, and, where an E&S BMP is being converted to a PCSM SCM, prior to placing soil media or stone in an SCM.
- D. The permittee may not proceed to complete construction of the SCM until a licensed professional evaluates the confirmation testing and notifies the permittee that the infiltration SCM meets the purpose and intent of the approved PCSM Plan, without overflowing at the storm event the SCM is designed to manage, and will protect waters of the Commonwealth.
- E. If the licensed professional determines that the SCM will not function as designed, the permittee shall implement corrective measures under the direction of the licensed professional and retest. If the licensed professional recommends changes to the dimensions, location, or type of SCM, the permittee must notify DEP/CCD prior to implementing the changes to determine the possible need for an amendment to the approved PCSM Plan and General Permit coverage. If an amendment is required, the permittee may not proceed with implementing the changes until written approval is obtained.
- F. Where confirmation testing for infiltration capacity is completed, the permittee must report the results of the testing on the SCM Construction Certification form that is required by Part A III.C.2.b of this General Permit.

XI. IMPLEMENTATION OF GENERAL PERMIT REQUIREMENTS

- A. Prior to commencement of construction activities or commencement of work on the project site, the permittee and co-permittee(s) must ensure that the following personnel understand the requirements of, and their specific responsibilities under, this General Permit:
 - Personnel responsible for the installation, maintenance, and/or repair of E&S BMPs and PCSM SCMs and implementation of the PPC Plan.

- Personnel responsible for the application and storage of treatment chemicals (if applicable).
 - Personnel responsible for conducting inspections.
 - Personnel responsible for taking corrective actions.
- B. The permittee and co-permittees are responsible for ensuring that all activities on the project site comply with the requirements of this General Permit.
- C. All personnel must have access at all times during earth disturbance activities to an electronic or paper copy of this General 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.

XII. OTHER REQUIREMENTS

A. Cessation of Earth Disturbance Activities.

The permittee must 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, where potential or actual harm is identified during on-site inspections, or for other reasons pursuant to applicable law.

B. Compliance and Enforcement.

1. A person aggrieved by an action of a CCD must 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 General 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. Non-Stormwater Discharges.

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

D. 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 NOI for General Permit coverage and are eligible for coverage under this General Permit.
2. If the off-site support activities have not been identified in the NOI for General Permit coverage, the permittee has notified DEP/CCD of the identification of the off-site support activities, prior to their use, and DEP/CCD has approved an amendment of the permittee's coverage under this General Permit.
3. A written E&S Plan that includes all off-site support activities has been developed, submitted for review, and approved by DEP/CCD.

E. Off-Site Discharges.

The permittee must ensure that E&S BMPs and PCSM SCMs are installed and maintained for all off-site discharges to areas other than surface waters, as applicable, including but not limited to swales, ditches, and the ground surface.

F. Archaeological Specimens.

The permittee and its agents must visually inspect for archaeological specimens, as the term is defined in the Pennsylvania State History Code (37 Pa. C.S.A., §§ 101 *et seq.*), during earth disturbance activities, and must immediately cease earth disturbance activities upon discovery of archaeological specimens. Upon discovery the permittee must immediately notify DEP/CCD and the Pennsylvania Historical and Museum Commission (PHMC) (Phone: (717) 783-8947).

G. Threatened and Endangered Species Protection.

1. If applicable, the permittee and co-permittee(s) must 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 must 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 state or federal threatened and endangered species.
3. When conducting earth disturbance activities, the permittee and co-permittees have a continuing obligation to ensure compliance with applicable state and federal laws pertaining to the protection of state or federal threatened and endangered species.



November 1, 2024 | revised January 16, 2025

VIA ELECTRONIC TRANSMITTAL

Green Fig Land, LLC
Attn: Charles Lyddane (charlie@greenfigland.com)
10 Woodford Lane
Malvern, PA 19355

Re: Chapter 102 PAG-02 NPDES General Permit Coverage Approval
NPDES Permit No.: PAC150395
Project Name: The Data Centers
Municipality: East & West Whiteland Township, Chester County

Dear Mr. Lyddane:

Under the authority of the federal Clean Water Act and Pennsylvania's Clean Streams Law, the Chester County Conservation District has approved your Notice of Intent (NOI) for new coverage under the PAG-02 NPDES General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-02 General Permit). Enclosed is a copy of the PAG-02 General Permit. **Please review the General Permit carefully and contact this office if you have any questions.**

The latest versions of the NOI and its supporting documents, including the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval, including the following plan drawings:

- The E&S Plan drawings, for The Data Centers, dated 11/10/2023 and last revised 9/27/2024.
- The PCSM Plan drawings for The Data Centers, dated 11/10/2023, and last revised 9/27/2024.

Your coverage under the PAG-02 General Permit is effective on **December 8, 2024** and will expire on **December 7, 2029**. This is the date the statewide (master) PAG-02 General Permit expires.



Prior to commencing earth disturbance activities resulting in stormwater discharges you must complete all of the following:

1. You must obtain all other state and local permits.
2. You must hold a pre-construction meeting unless waived by the Chester County Conservation District in writing.

You must record the following information with the Recorder of Deeds Office and submit the information recorded as well as proof of recording to the Chester County Conservation District prior to scheduling the pre-construction meeting:

- An instrument that is consistent with DEP's Sample Instrument for the Declaration of Restrictions and Covenants, available on DEP's website (visit www.dep.pa.gov/constructionstormwater and select E&S Resources).
- Approved PCSM Plan Drawing(s) identifying stormwater control measures (SCMs) or other documentation that identifies the location of the SCMs on the relevant properties; the planned size (length, width, depth) of the SCMs; depictions of the inlet and outlet structures of the SCMs, as applicable; construction materials and media, as applicable; and the planned vegetation for the SCMs, as applicable.
- Long-Term Operation & Maintenance (O&M) Plans for the SCMs, if separate from PCSM Plan Drawings.

You will need to visit DEP's website to download and use the following forms throughout your term of General Permit coverage. Go to www.dep.pa.gov/constructionstormwater, select E&S Resources, and click on the links under "Published Forms."

- **Visual Site Inspection Report (3800-FM-BCW0271d)** – You must use this report or an alternative document or electronic form that collects and retains identical information to document self-inspections of your project site. Inspections must occur weekly, following storm events of at least 0.25 inch, and in response to deficiencies. You must maintain these reports on-site and submit the reports upon request.
- **New Property Owner Notification Form (3800-FM-BCW0271i)** – If you sell property within your project site that contains a PCSM SCM, you must submit this form to the Chester County Conservation District within 30 days of the date of the sale.
- **SCM Construction Certification Form (3800-FM-BCW0271j)** – You must submit this form to the Chester County Conservation District within 30 days of the completion of any structural PCSM SCM, as determined by a licensed professional. The permittee and licensed professional responsible for oversight of critical stages of SCM construction must sign the form.

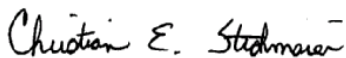


- **Annual Report (3800-PM-BCW0405e)** – You must submit the annual report by December 7 of each year; your first report is due **December 7, 2025**.
- **Notice of Termination (NOT) (3800-PM-BCW0229b)** – You must submit the NOT following installation of erosion and sediment control (E&S) best management practices (BMPs) and PCSM SCMs; permanent stabilization of earth disturbance activities; and removal of temporary E&S BMPs.

Persons aggrieved by an action of a conservation district under 25 Pa. Code Chapter 102 may request an informal hearing with DEP within 30 days of publication of this notice in the *Pennsylvania Bulletin*, pursuant to 25 Pa. Code § 102.32(c). DEP will schedule this informal hearing within 30 days of the request. After this informal hearing, any final determination by DEP may be appealed to the Environmental Hearing Board.

If you have questions, please contact Shannon Healey by e-mail at shealey@chesco.org or by telephone at 610-455-1377 and refer to the permit number listed on the first page.

Sincerely,



Christian E. Strohmaier
Chester County Conservation District
Managing Director

cc: JMR Engineering, LLC. (jack@jmrengineering.com)
DEP Permits Section Chief
East & West Whiteland Township

Attachment: PAG-02 General Permit

