



FREQUENTLY ASKED QUESTIONS REGARDING EARTH DISTURBANCE ACTIVITIES

Questions from municipalities have surfaced due to the Chapter 102 (Erosion and Sediment Control) changes in November 2010. This brochure is an approach to answer those questions that are most frequently asked.

Q: When is a written E&S (Erosion & Sediment) plan, NPDES (National Pollutant Discharge Elimination System) permit approval, and a PCSM (Post Construction Stormwater Management) plan required?

A. According to Chapter 102.4(b): For earth disturbance activities other than agricultural plowing or tilling or animal heavy use areas, the following E&S requirements apply:

1. *The implementation and maintenance of E&S BMPs (Best Management Practices) are required in all watersheds when earth disturbance activities are less than 5,000 square feet.*

In addition to the implementation and maintenance of E&S BMPs, a written E&S plan is required upon the District's request in Special Protection watersheds, HQ or EV (High Quality or Exceptional Value).

- 2. The implementation and maintenance of E&S BMPs and a written E&S plan are required in all watersheds when earth disturbance activities range from 5,000 square feet to less than one acre.*
- 3. The implementation and maintenance of E&S BMPs, a written E&S plan, NPDES permit approval, and a PCSM plan are required in all watersheds when earth disturbance activities are one acre or more, prior to issuance of building and/or other municipal permits.*
- 4. The implementation and maintenance of E&S BMPs, a written E&S plan, and a Chapter 105 (Water Obstruction and Encroachments) permit are required in all watersheds when earth disturbance activities are located adjacent to, and within existing drainage features, such as streams and wetlands.*

Q: What types of permits would a municipality need to withhold approval for until NPDES permit approval is issued?

A: With the exception of local stormwater approvals or authorizations, a municipality or county may not issue a building or other permit or approval to those proposing or conducting earth disturbance activities requiring a Department permit until the Department or District has issued/approved the written E&S plan and/or NPDES permit.

Q: What is required if I want to demolish and/or move a building from one side of a site to the other?

A: If one acre or more of earth is disturbed during demolition, and/or if one acre or more of earth is disturbed moving a building from one side of the site to the other, NPDES permit approval is required. If the demolition or move is part of a future development that will disturb one acre or more of earth disturbance, but the building demolition or move itself will generate less than one acre of earth disturbance, NPDES permit approval is required PRIOR to the demolition of the existing structure or structures, or move of the building, in accordance with Permit Requirements Chapter 102.5.

Q: How can I be sure that a project involving earth disturbance activities has current approvals and required permits when the project may have had approvals years ago, but has not built anything due to the economy?

A: Municipalities are copied on all correspondence. However, because of the amount of time that may have passed, it is recommended that the District be contacted regarding the status of the written E&S plan, NPDES permit approval, and/or the PCSM plan.



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Q: What are the riparian buffer requirements for NPDES permit approvals?

A: Riparian buffers are required if the project site contains, is along, or is within 150 feet of Special Protection waters (HQ or EV). For all waters of the Commonwealth, applicants are required to comply with all other regulatory requirements, including anti-degradation provisions and municipal buffer requirements.

Q: What are the requirements if the earth disturbance activity involves a pond or a stream?

A: All Chapter 105 (Water Obstruction and Encroachments) permits require review by the DEP (Department of Environmental Protection). The Lehigh County Conservation District does not conduct reviews of the Chapter 105 permits, however; the District conducts the **E&S review** of all Chapter 105 permits with the exception of General Permit 9 and General Permit 11. Each stream crossing, except for General Permit 9 and General Permit 11, requires a written E&S plan and adequacy letter from the District.

Q: Is NPDES permit approval required if an agricultural operation is expanding its agricultural plowing and tilling activities and/or animal heavy use areas by cutting down woodlands and removing trees and stumps from that area?

A: No. NPDES permit approval is not required since agricultural plowing and tilling activities and/or animal heavy use areas are exempt from NPDES permit coverage. However, the implementation and maintenance of E&S BMPs are required to minimize the potential for accelerated erosion and sedimentation, including those earth disturbance activities that are less than 5,000 square feet. If the earth disturbance activity is 5,000 square feet or more, a written E&S plan is required. Please contact the Lehigh County Conservation District for further assistance.

Q: What are the requirements for a farm proposing a house, barn, manure storage pit, and silos in an HQ or EV watershed?

A: NPDES permit approval is required if the earth disturbance activity is one acre or more. If the proposed site contains, is along, or is within 150 feet of Special Protection waters (HQ or EV), riparian buffers are required, according to the Chapter 102 regulations.

Q: What are the requirements if an agricultural operation is proposing to construct a new farm building?

A: The construction of a new farm building is not part of an agricultural plowing and tilling activity and/or animal heavy use area, and therefore would be subject to the same permitting requirement thresholds as other construction activities. If the earth disturbance activity is one acre or more, it will require NPDES permit approval.

Q: Is NPDES permit approval required for clearing and grubbing land for agricultural production?

A: No. A written E&S plan or conservation plan meeting the requirements of Chapter 102.4(a) is required.

Q: Is NPDES permit approval required for the establishment of wildlife food plots?

A: No. This is considered an agricultural activity.

For detailed information, please visit www.depweb.state.pa.us/

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