

## Chapter 190. Stormwater Management

### Article I. General Provisions

#### § 190-9. Erosion and sediment control during regulated earth disturbance activities.

- A. No regulated earth disturbance activities within the Township shall commence until the Township receives a copy of all required approvals from the Conservation District or DEP for an erosion and sediment control plan.
- B. **DEP requires an erosion and sediment control plan for any earth disturbance activity of 5,000 square feet or more under 25 Pa. Code § 102.4(b).**
- C. In addition, under 25 Pa. Code Chapter 92,<sup>[1]</sup> a DEP NPDES construction activities permit is required for regulated earth disturbance activities.  
*[1] Editor's Note: Former 25 Pa. Code Ch. 92 was repealed effective 10-9-2010. See now 25 Pa. Code Ch. 92a.*
- D. Evidence of all necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office or county conservation district shall be provided to the Township.
- E. A copy of the erosion and sediment control plan and all required permits, as required by DEP regulations, shall be available at the project site at all times.
- F. Additional erosion and sediment control design standards and criteria are recommended to be applied where infiltration BMPs are proposed and shall include the following:
  - (1) Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase to maintain maximum infiltration capacity.
  - (2) Infiltration BMPs shall not be constructed nor receive runoff until the entire contributory drainage area to the infiltration BMP has achieved final stabilization.
- G. Erroneous permit. Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. No action may be taken by a board, agency or employee of the Township purporting to validate such a violation.

- (i) Agricultural plowing or tilling activities.
- (ii) Animal heavy use areas.

(3) The landowner, and any lessee, renter, tenant or other land occupier, conducting or planning to conduct agricultural plowing or tilling activities, or operating an animal heavy use area, are jointly and individually responsible for developing a written E&S Plan and implementing and maintaining BMPs, including those identified in the E&S Plan.

(4) The E&S Plan must include cost-effective and reasonable BMPs designed to minimize the potential for accelerated erosion and sedimentation from agricultural plowing or tilling activities and animal heavy use areas.

(i) For agricultural plowing or tilling activities, the E&S Plan must, at a minimum, limit soil loss from accelerated erosion to the soil loss tolerance (T) over the planned crop rotation.

(ii) For agricultural plowing and tilling activities that will occur on fields with less than 25% plant cover or crop residue cover and within 100 feet of a river, or perennial or intermittent stream, additional BMPs shall be implemented to minimize accelerated erosion and sedimentation.

(iii) For animal heavy use areas, the E&S Plan must identify BMPs to minimize accelerated erosion and sedimentation. BMPs and their design standards are listed in the current amended and updated version of the appropriate National Resources Conservation Service conservation practice standards such as Heavy Use Area Protection, Critical Area Planting, Fencing, Wastewater Treatment Strip, Constructed Wetland, Use Exclusion, Animal Trails and Walkways, Diversions and Roof Runoff Structure.

(5) The E&S Plan must contain plan maps that show the location of features including surface waters of this Commonwealth, and drainage patterns, field and property boundaries, buildings and farm structures, animal heavy use areas, roads and crossroads, and BMPs; soils maps; and a description of BMPs including animal heavy use area practices and procedures, tillage systems, schedules, and crop rotations. The plan must be consistent with the current conditions and activities on the agricultural operation.

(6) The E&S Plan must contain an implementation schedule. The plan shall be implemented according to the schedule, and the BMPs shall be operated and maintained as long as there are agricultural plowing or tilling activities or animal heavy use areas, on the agricultural operation.

(7) The portion of a conservation plan that identifies BMPs utilized to minimize accelerated erosion and sedimentation from agricultural plowing or tilling activities, or from operation of animal heavy use areas, may be used to satisfy the E&S Plan requirements of this subsection if it meets the requirements of paragraphs (4)–(6).

(8) The E&S Plan shall be available for review and inspection at the agricultural operation.

(9) Nothing in this section negates the requirements under other provisions of this chapter, such as those applicable to construction activities.

(b) For earth disturbance activities other than agricultural plowing or tilling or animal heavy use areas, the following erosion and sediment control requirements apply:

(1) The implementation and maintenance of E&S BMPs are required to minimize the potential for accelerated erosion and sedimentation, including those activities which disturb less than 5,000 square feet (464.5 square meters).

(2) A person proposing earth disturbance activities shall develop and implement a written E&S Plan under this chapter if one or more of the following criteria apply:

(i) The earth disturbance activity will result in a total earth disturbance of 5,000 square feet (464.5 square meters) or more.

(ii) The person proposing the earth disturbance activities is required to develop an E&S Plan under this chapter or under other Department regulations.

(iii) The earth disturbance activity, because of its proximity to existing drainage features or patterns, has the potential to discharge to a water classified as a High Quality or Exceptional Value water under Chapter 93 (relating to water quality standards).

(3) The E&S Plan shall be prepared by a person trained and experienced in E&S control methods and techniques applicable to the size and scope of the project being designed.

(4) Unless otherwise authorized by the Department or conservation district after consultation with the Department, earth disturbance activities shall be planned and implemented to the extent practicable in accordance with the following:

(i) Minimize the extent and duration of the earth disturbance.

(ii) Maximize protection of existing drainage features and vegetation.

(iii) Minimize soil compaction.

(iv) Utilize other measures or controls that prevent or minimize the generation of increased stormwater runoff.

(5) The E&S Plan must contain drawings and narrative which describe the following:

(i) The existing topographic features of the project site and the immediate surrounding area.

(ii) The types, depth, slope, locations and limitations of the soils.

(iii) The characteristics of the earth disturbance activity, including the past, present and proposed land uses and the proposed alteration to the project site.

(iv) The volume and rate of runoff from the project site and its upstream watershed area.

(v) The location of all surface waters of this Commonwealth which may receive runoff within or from the project site and their classification under Chapter 93.

(vi) A narrative description of the location and type of perimeter and onsite BMPs used before, during and after the earth disturbance activity.

(vii) A sequence of BMP installation and removal in relation to the scheduling of earth disturbance activities, prior to, during and after earth disturbance activities that ensure the proper functioning of all BMPs.

(viii) Supporting calculations and measurements.

(ix) Plan drawings.

(x) A maintenance program which provides for the operation and maintenance of BMPs and the inspection of BMPs on a weekly basis and after each stormwater event, including the repair or replacement of BMPs to ensure effective and efficient operation. The program must provide for completion of a written report documenting each inspection and all BMP repair, or replacement and maintenance activities.

(xi) Procedures which ensure that the proper measures for the recycling or disposal of materials associated with or from the project site will be undertaken in accordance with this title.

(xii) Identification of the naturally occurring geologic formations or soil conditions that may have the potential to cause pollution during earth disturbance activities and include BMPs to avoid or minimize potential pollution and its impacts from the formations.

(xiii) Identification of potential thermal impacts to surface waters of this Commonwealth from the earth disturbance activity including BMPs to avoid, minimize or mitigate potential pollution from thermal impacts.

(xiv) The E&S Plan shall be planned, designed and implemented to be consistent with the PCSM Plan under § 102.8 (relating to PCSM requirements). Unless otherwise approved by the Department, the E&S Plan must be separate from the PCSM Plan and labeled "E&S" or "Erosion and Sediment Control Plan" and be the final plan for construction.

(xv) Identification of existing and proposed riparian forest buffers.

(6) To satisfy the antidegradation implementation requirements in § 93.4c(b) (relating to implementation of antidegradation requirements), for an earth disturbance activity that requires a permit under this chapter and for which any receiving surface waters of this Commonwealth is classified as High Quality or Exceptional Value under Chapter 93, the person proposing the activity shall, in the permit application, do the following:

(i) Evaluate and include nondischarge alternatives in the E&S Plan, unless a person demonstrates that nondischarge alternatives do not exist for the project.

(ii) If the person makes the demonstration in subparagraph (i) that nondischarge alternatives do not exist for the project, the E&S Plan must include ABACT, except as provided in § 93.4c(b)(1)(iii).

(iii) For purposes of this chapter, nondischarge alternatives and ABACT and their design standards are listed in the *Erosion and Sediment Pollution*