

PAG-02 General Permit and Individual NPDES Permit

Frequently Asked Questions (FAQ)

January 23, 2020

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Version 1.5

Background

The Department of Environmental Protection (DEP) published a reissued [PAG-02 NPDES General Permit for Discharges of Stormwater Associated with Construction Activities](#) (PAG-02) and associated documents (2019 General Permit), a new [individual NPDES permit application](#), and a host of new permit-related forms in December 2019. As a result, a number of permit process-related changes are being implemented. The purpose of this FAQ is to explain how the permit process for NPDES permits under 25 Pa. Code Chapter 102 has changed to assist the regulated community. This FAQ will be updated with additional questions and answers over time.

Nothing in this document affects regulatory requirements. The interpretations herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the interpretations in this document that weight or deference. This document provides a framework within which DEP and delegated county conservation districts (CCDs) will exercise administrative discretion in the future. DEP reserves the discretion to deviate from the interpretations in this document if circumstances warrant.

Permit Updates

FAQ #1: I received a letter dated December 7, 2019 from DEP that requested that I provide DEP with an acknowledgement. Can you explain this further?

DEP's letter was sent to inform permittees with existing PAG-02 coverage that the terms and conditions of their coverage have changed, effective December 8, 2019, which is the effective date of the reissued PAG-02 General Permit. The letter included a form and instructions for recipients to acknowledge that they either: 1) remain eligible for and will comply with the reissued PAG-02; 2) are not eligible for, will not be able to comply with, or no longer desire PAG-02 coverage; or 3) no longer need PAG-02 coverage because earth disturbance activities have ceased and the project site has been permanently stabilized. Permittees have the option to either submit a hard copy acknowledgement form, email a scanned, signed copy of the acknowledgement form to DEP's resource account (RA-102PermitForms@pa.gov), or use an [online form](#).

FAQ #2: I am an existing PAG-02 permittee. Am I expected to comply with all of the new requirements immediately?

Yes. However, the 2019 PAG-02 clarified the eligibility criteria for stormwater discharges to impaired waters, and those eligibility criteria do not require additional action by existing permittees unless additional earth disturbance warranting a major amendment to general permit coverage is proposed (see DEP's [FAQ for Chapter 102 Permit Amendments](#) document for criteria for major amendments). Specifically, if an existing PAG-02 permittee discharges stormwater to surface waters characterized by either of the following, the permittee will need to implement non-discharge alternatives or Antidegradation Best Available Combination of Technologies (ABACT) best management practices (BMPs) only if a major amendment to coverage is necessary for additional earth disturbance:

1. Project sites with stormwater discharges to surface waters that are impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients in DEP's latest published Integrated Water Quality Monitoring and Assessment Report (Integrated Report) most recently approved by EPA; or
2. Project sites with 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 pollutant(s) of concern include siltation, suspended solids, or nutrients. In addition, if a specific wasteload allocation (WLA) has been established that would apply to the discharge, the permittee shall implement necessary steps to meet that allocation.

New projects (i.e., those which were authorized PAG-02 coverage after December 7, 2019) discharging to waters impaired for any of the causes identified above, including all new projects in the Chesapeake Bay watershed, will need to use non-discharge alternatives or ABACT BMPs for E&S and PCSM.

FAQ #3: What are the other significant changes to the reissued PAG-02 General Permit?

Here is an overview of the major changes to PAG-02, aside from the eligibility criteria for discharges to impaired waters explained in FAQ #2 (note that this list is not comprehensive as to all of the changes):

- **Expiration Date** – An expiration date has historically been used by DEP/CCD on the authorization of coverage page (page 1) for the PAG-02 General Permit as five years following the effective date of coverage. The expiration date could exceed the expiration date of the statewide General Permit itself. The 2019 General Permit establishes the expiration date of coverage as the expiration date of the statewide General Permit (i.e., December 7, 2024). In other words, coverage under the 2019 General Permit will be approved only to December 7, 2024.

If your PAG-02 coverage expires prior to December 7, 2024 and you plan to continue discharging after your coverage expiration date (i.e., the earth disturbance activity will not be complete or the project site will not be permanently stabilized or a Notice of Termination (NOT) will not be approved), you must submit a Notice of Intent (NOI) to renew your coverage, or otherwise submit an application for an individual NPDES permit, at least 180 days prior to the expiration date unless a later date is approved. If DEP/CCD approves your renewal NOI, the expiration date of renewed coverage will be December 7, 2024.

In the past, a permittee's coverage under PAG-02 would automatically continue under the reissued general permit. This will no longer be the case under the 2019 General Permit. DEP will provide further information on the method(s) by which coverage will be extended past December 7, 2024 closer to that date, by posting instructions on its website, providing notice in the *Pennsylvania Bulletin*, and conducting other outreach activities to make permittees aware.

- **General Permit Implementation** – New requirements have been established to ensure on site personnel are aware of their responsibilities under the 2019 General Permit. The permittee and co-permittees must ensure that all site personnel responsible for 1) installation, maintenance, and repair of E&S and PCSM BMPs, 2) implementation of the Preparedness, Prevention, and Contingency (PPC) Plan, 3) application and storage of treatment chemicals, 4) conducting inspections, and 5) taking corrective actions understand the requirements of the General Permit. The permittee must maintain a log on-site of all individuals that were trained on the relevant parts of the General Permit and make this log available if requested by DEP/CCD and keep the associated plans on-site for review. The term “training” does not mean formal training, although formal training in a classroom or other setting could be done to satisfy this requirement. Training in this context broadly means the transfer of information, e.g., from permittee or general contractor to subcontractor, daily or weekly meetings, pre-construction meeting, etc.
- **Site Inspections** – The 2019 General Permit clarifies the appropriate form that must be used for documenting visual site inspections, i.e., the [Visual Site Inspection Report](#) (3800-FM-BCW0271d), or equivalent, and the measurable rainfall that triggers a post-storm inspection (0.25 inch). The 2019 General Permit also requires visual site inspections in response to observed deficiencies with E&S and/or PCSM Plan implementation (i.e., corrective action inspections). Note that use of the Visual Site Inspection Report, or equivalent, must be implemented immediately.
- **Modules** – For the 2019 General Permit, DEP is seeking to improve the efficiency and consistency of DEP and CCD completeness and technical reviews by requiring the use of [modules](#) as templates for the narrative components of E&S and PCSM Plans (i.e., E&S Module 1 and PCSM Module 2). Modules 1 and 2 must be submitted with all PAG-02 NOIs and individual permit applications for new projects. Module 3 (Antidegradation Analysis) and Module 4 (Riparian Buffers) may be required for individual permit applications only, where applicable. As discussed below, use of the modules is generally not required for NOIs and applications submitted for renewals and permit amendments.

- **Transfer and Co-Permittee Responsibilities** – Minor changes were made for transferring General Permit coverage and adding co-permittees to the coverage. The Transferee/Co-Permittee Application form (3150-PM-BWEW0228) will no longer be used. Permittees seeking to transfer General Permit coverage will use the [Application for NPDES/WQM Permit Transfer form](#) (Transfer Application) (3800-PM-BCW0041b) and permittees seeking to add operators as co-permittees will use the [Co-Permittee Acknowledgement Form for Chapter 102 Permits](#) (3800-FM-BCW0271a).
- **Proof of Instrument Recording** – The 2017 General Permit required an instrument for PCSM BMPs meeting the requirements of § 102.8(m)(2) to be recorded with the recorder of deeds within 45 days of coverage approval, and required submission of proof of the recording with submission of the NOT. In addition to requiring proof upon submission of the NOT, the 2019 General Permit also requires proof upon submission of a Transfer Application. The [NPDES/WQM Transfer Application Instructions](#) have been updated to include a requirement that proof of instrument being recording for the long-term operation and maintenance plan associated with the PCSM Plan be provided with the transfer application. If not submitted the application is incomplete.
- **Water Quality Analysis** – DEP is implementing a new procedure for the water quality analysis required by § 102.8(g)(2) as contained in DEP’s PCSM Spreadsheet and explained in the instructions document to the spreadsheet. Submission of the Quality Worksheet of the PCSM Spreadsheet is required with PAG-02 NOIs and individual permit applications. DEP’s PCSM Spreadsheet is available on its E&S Resources website (visit www.dep.pa.gov/constructionstormwater, select E&S Resources).
- **Soil Contamination** – Under the 2017 General Permit, if the potential existed for toxic or hazardous pollutants in stormwater to be discharged from the site during construction, the applicant was not eligible for coverage. The issue typically arose in the context of known contaminated soils. The 2019 PAG-02 NOI Instructions clarify the criteria concerning soil contamination by specifying that if medium-specific concentrations in 25 Pa. Code Chapter 250 are exceeded, the project is not eligible unless a site-specific cleanup standard has been met under Act 2 or other program or evidence of naturally occurring soil contamination or widespread atmospheric deposition is provided.

FAQ #4: If I submitted a PAG-02 NOI or Individual Permit Application prior to the effective date of the 2019 PAG-02 General Permit, but it wasn’t acted on by the effective date of the General Permit, do I need to submit new NOI or application forms?

No. DEP/CCD will review project information using the forms that were submitted. After action is taken on the NOI or application, if there are any changes proposed, the latest forms must be used, except for major or minor amendments. Examples:

- A permit transfer is desired – the appropriate [transfer application](#) must be submitted.
- An operator will be added to permit coverage as a co-permittee – the [Co-Permittee Acknowledgement Form for Chapter 102 Permits](#) must be submitted.

- Construction will not be completed by the expiration date and a renewal NOI or application will need to be submitted – the latest PAG-02 NOI or individual permit application must be submitted (although not all of the components of a full NOI/application package need to be submitted for a renewal).

Use of Non-Discharge Alternatives or ABACT BMPs

FAQ #5: My project is located in the Chesapeake Bay watershed and I submitted my NOI for PAG-02 coverage prior to the expiration date of the 2017 PAG-02 General Permit, but authorization did not or will not occur until after December 7, 2019. Do I need to implement non-discharge alternatives or ABACT BMPs?

Yes. If coverage under the 2017 PAG-02 General Permit was not approved prior to its expiration, DEP/CCD will reexamine eligibility of all projects under the 2019 PAG-02 General Permit. This includes discharges to impaired waters, including the Chesapeake Bay watershed, which will require non-discharge alternatives or ABACT BMPs.

FAQ #6: My project is located in the Chesapeake Bay watershed but there will be no direct discharges to local impaired waters. I prefer not to use non-discharge alternatives or ABACT BMPs. Can I opt to apply for an individual permit to avoid needing to use non-discharge alternatives or ABACT BMPs?

Yes. The individual permit application prompts the use of non-discharge alternatives or ABACT BMPs when stormwater from project sites will discharge directly to waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modification/alterations, or nutrients, although an applicant may propose alternatives that meet all regulatory requirements. If using non-discharge alternatives or ABACT BMPs, the applicant must complete [Antidegradation Analysis Module 3](#) (3800-PM-BCW0406c). However, unlike PAG-02, the individual permit application does not prompt the use of non-discharge alternatives or ABACT BMPs when the discharge is to waters covered by an EPA-approved or established TMDL such as the Chesapeake Bay watershed.

Example 6.1 – A project needs an individual NPDES permit because stormwater will discharge directly to a surface water with an existing use of HQ-CWF following conveyance through private storm sewers. The project is located in the Chesapeake Bay watershed and is also part of a sub-watershed that has an EPA-approved TMDL for abandoned mine drainage and siltation. There is no wasteload allocation (WLA) in the TMDL for the project's discharges. The surface water receiving the discharges is attaining its uses (i.e., is not impaired). Module 3 will need to be completed to address discharges to special protection waters (i.e., in this case HQ-CWF). Module 3 would not need to be completed for impaired waters.

NOTE 6.1 – If discharges are to waters with existing or designated uses of High Quality Waters (HQ) or Exceptional Value Waters (EV), an antidegradation analysis must be

completed and recorded on Module 3. An antidegradation analysis requires that an applicant first evaluate non-discharge alternatives and only if such alternatives are considered not to be environmentally sound and cost effective can the applicant select ABACT BMPs. For direct discharges to waters impaired for siltation, suspended solids, turbidity, water/flow variability, flow modifications/alterations, or nutrients, which do not have existing or designated uses of HQ or EV, PAG-02 or individual permit applicants may select either non-discharge alternatives or ABACT BMPs (i.e., you do not need to demonstrate that non-discharge alternatives are not environmentally sound and cost effective).

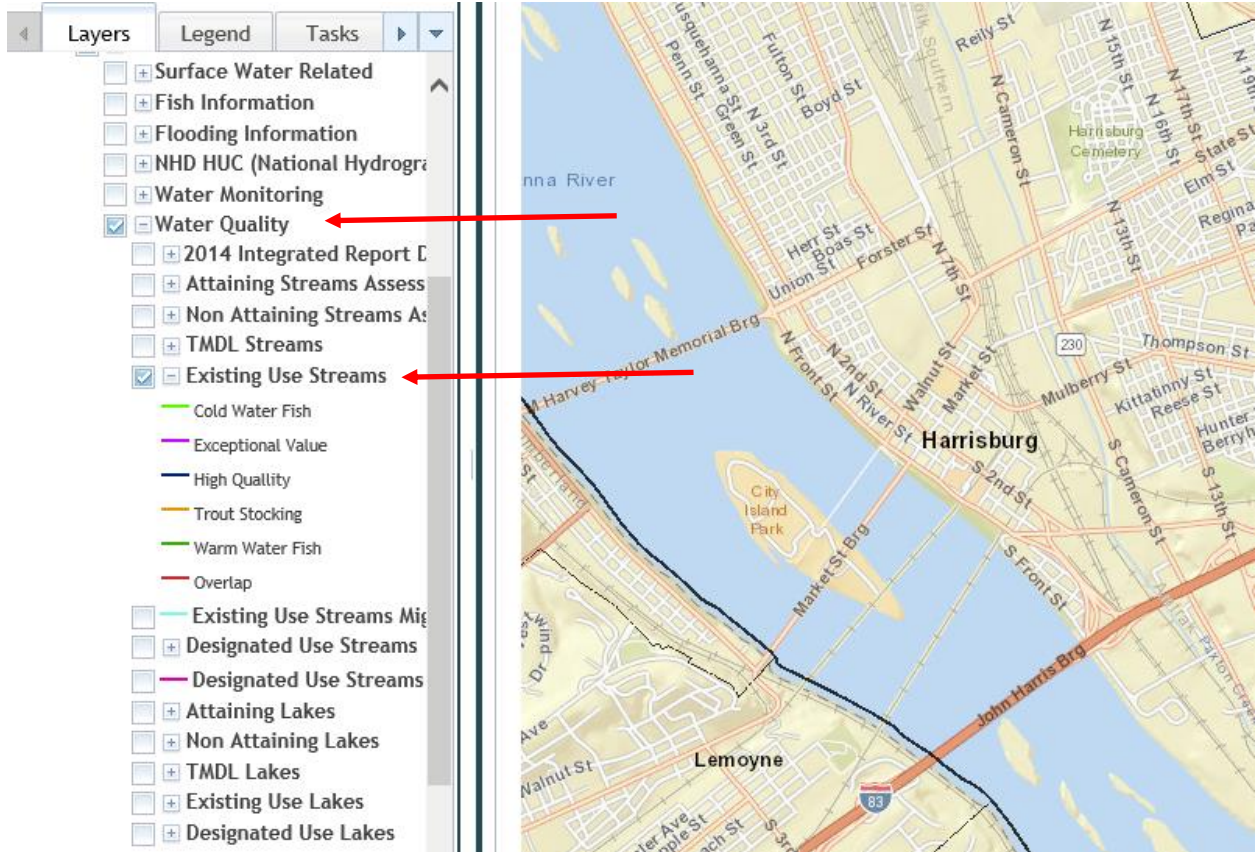
NOTE 6.2 – If there is a WLA specified in a TMDL for your project, then regardless of whether the project qualifies for PAG-02 or will seek an individual permit, you will need to demonstrate how the WLA will be achieved as part of the NOI or application. For example, if a TMDL provides for a maximum sediment load of 100 lbs/day, you will need to demonstrate through appropriate modeling and/or calculations that discharges from your project site both during and following construction will not exceed 100 lbs/day.

FAQ #7: How do I determine whether my project will need to use non-discharge alternatives or ABACT BMPs?

First, evaluate the existing and designated uses of the surface water that will directly receive discharges from your project site. If discharges will be conveyed by storm sewers such as a municipal separate storm sewer system (MS4) or privately-owned sewers, you must determine the uses of the ultimate receiving waters for those sewers. Recommendations for determining these uses are:

- You can use DEP’s [eMapPA](#) application to determine existing and designated uses. Zoom in to your project site on the map, select “Regulated Facilities and Related Information”, “Streams and Water Resources”, “Water Quality”, and then the “Existing Use Streams” layer (Figure 7.1). If your receiving waters are not highlighted in one of the colors shown in the legend, the waters do not have an existing use that differs from its designated use. To reveal designated uses, de-select the “Existing Use Streams” sub-layer and select the “Designated Use Streams” sub-layer (Figure 7.2). To verify the use, you can select the Identify tool and click on the surface water. The use will be listed next to the “Map Symbology” and “Use Description” identifiers (Figure 7.3).
- You can visit DEP’s [Statewide Existing Use Classifications website](#) to determine whether your receiving waters have an existing use that differs from its designated use. If your receiving waters aren’t identified there, there is no existing use different from designated use.
- You can review Section 93.9 of [25 Pa. Code Chapter 93](#) for designated uses.

Figure 7.1 – Use of eMAP to Identify Existing Uses of Surface Waters.



If these sources reveal that surface waters receiving discharges from your project site are HQ or EV, you will need to submit an individual permit application and complete an antidegradation analysis using Module 3. In that circumstance, the implementation of non-discharge alternatives is required unless determined to be not environmentally sound and cost effective, in which case ABACT BMPs will need to be implemented.

Figure 7.2 – Use of eMAP to Identify Designated Uses of Surface Waters.

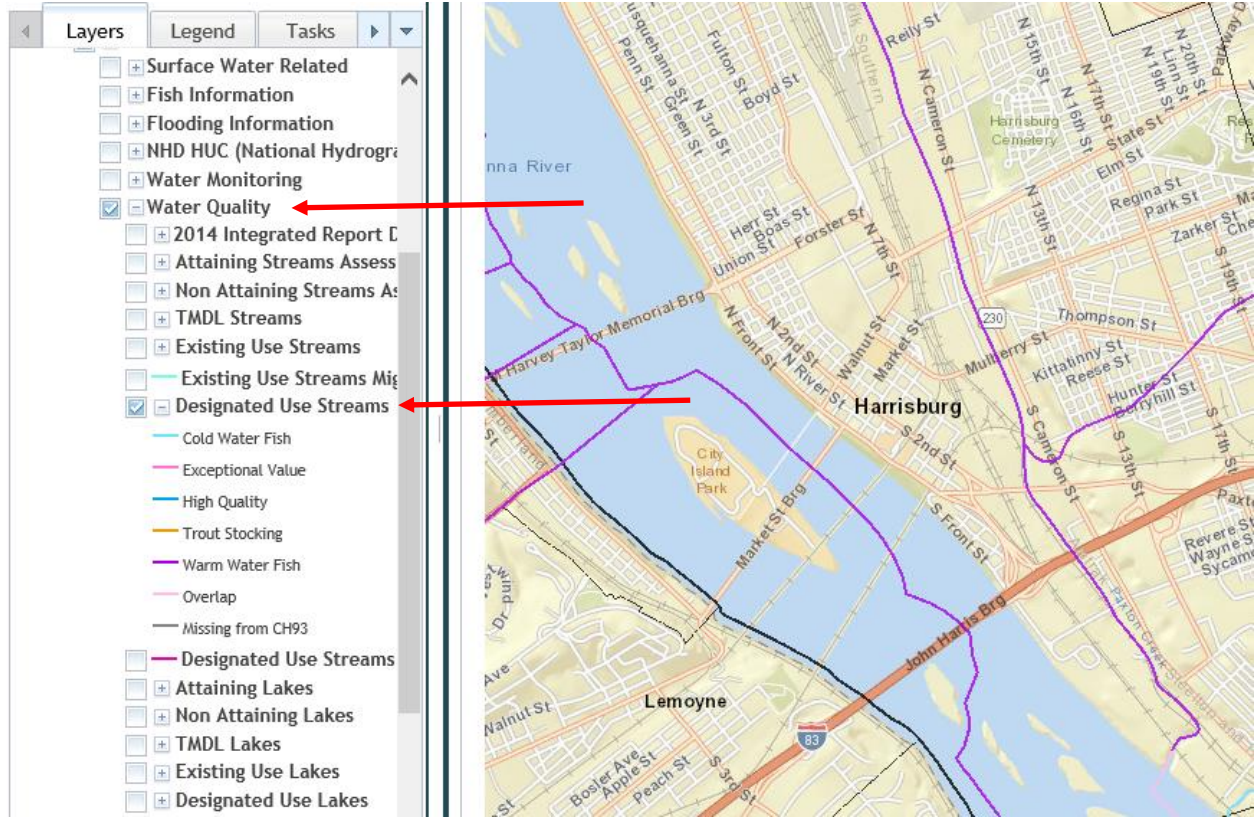
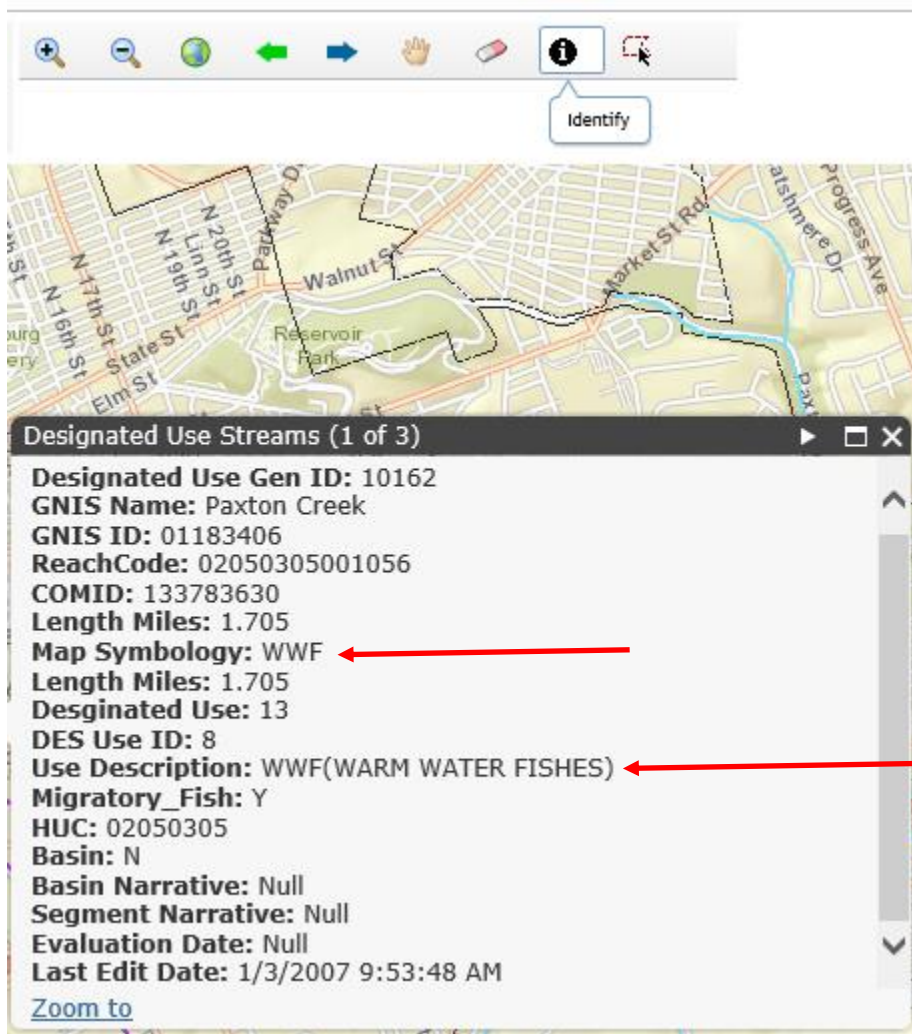


Figure 7.3 – Use of eMAP Identify Tool to Verify Existing and Designated Uses.



Second, determine whether your receiving waters are impaired for siltation, suspended solids, turbidity, water/flow variability, flow modification/alterations, or nutrients. Recommendations include:

- eMAP – Select “Water Quality” and “Non Attaining Stream Assessments” (Figure 7.4). If your receiving waters are shown in red, the waters are impaired. Next click on the Identify tool and then your water. Check the information reported for “Source Causes.” If one or more causes are siltation, suspended solids, turbidity, water/flow variability, flow modifications /alterations, or nutrients, a non-discharge alternative or ABACT BMPs would be required. In the example shown in Figure 7.5, note that “TOTAL SUSPENDED SOLIDS” is identical to “suspended solids.”

Figure 7.4 – Use of eMAP to Evaluate Impairment Status of Surface Waters.

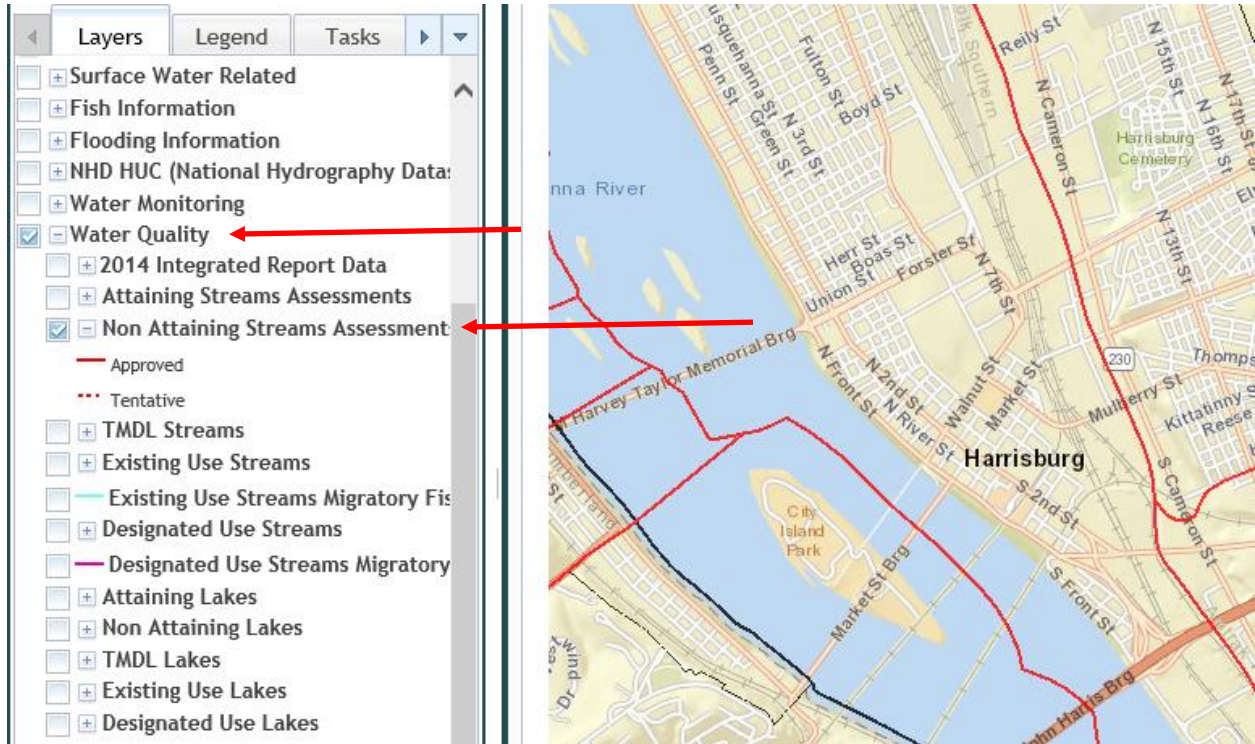
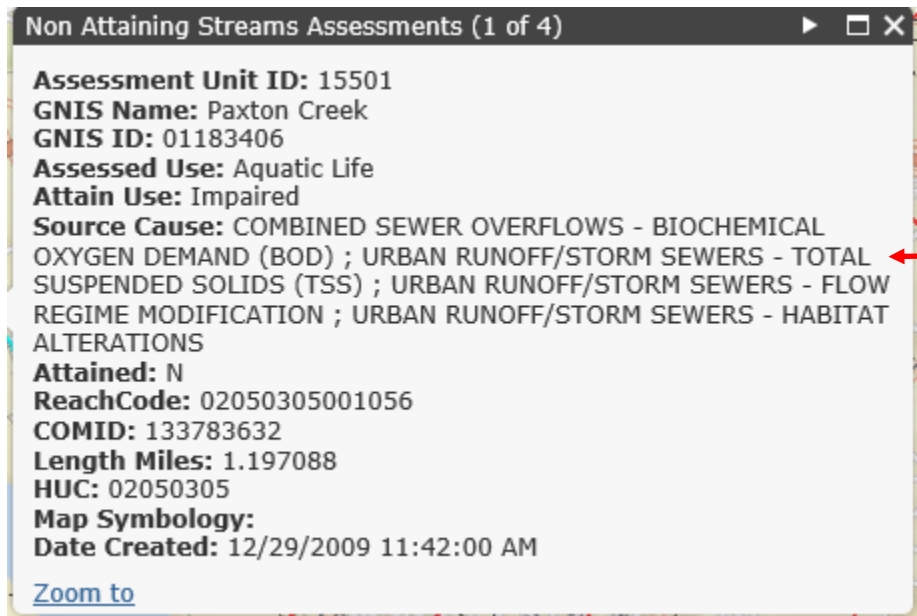


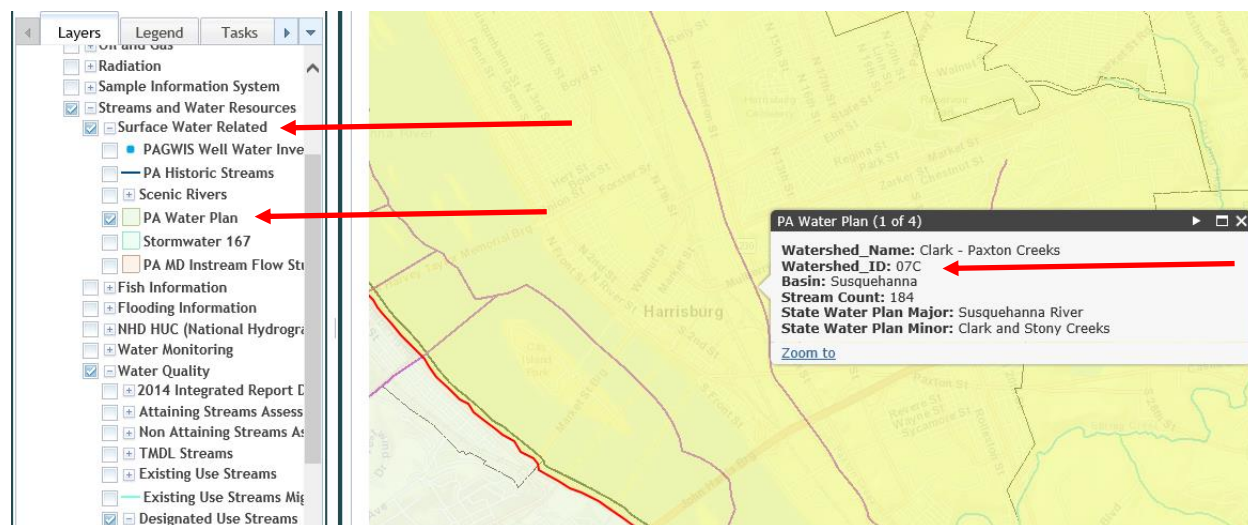
Figure 7.5 – Use of eMAP Identify Tool to Determine Cause of Impairment.



Third, for applicants seeking PAG-02 coverage only, determine whether there is an EPA-approved or established TMDL that covers the surface waters that will receive discharges from your project

site. If you are in the Chesapeake Bay watershed, there is a TMDL that covers your receiving waters, and therefore non-discharge alternatives or ABACT BMPs must be used. If you are not sure whether or not your project discharges to waters that flow to the Chesapeake Bay, you can use eMAP by selecting “Surface Water Related” and “PA Water Plan” and using the Identify tool (Figure 7.6). If the Watershed_ID lists the watershed as being in the range of 04 through 13, the waters discharge to the Chesapeake Bay.

Figure 7.6 – Use of eMAP to Identify Watershed ID.

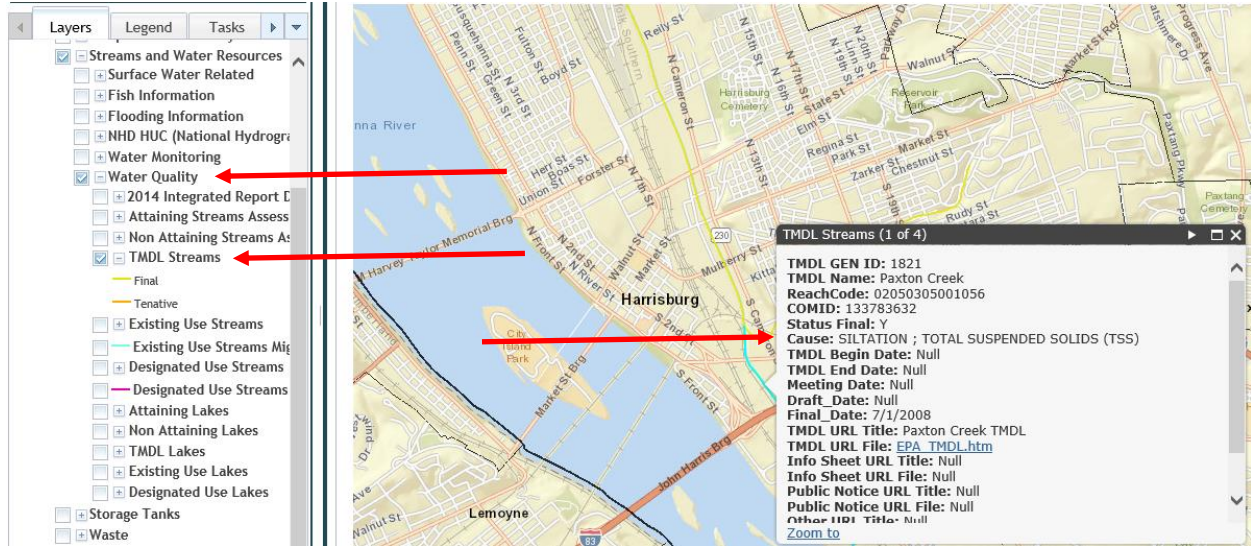


For PAG-02 projects outside of the Chesapeake Bay watershed, to determine the applicability of TMDLs the following recommendations apply:

- eMAP – Select “Water Quality” and “TMDL Streams” to see whether a Final TMDL applies to your receiving waters. Use the Identify tool to see the Cause (Figure 7.7). If the Cause includes siltation, suspended solids or nutrients, non-discharge alternatives or ABACT BMPs will be required.
- [DEP’s TMDL website](#) – use the search tool to determine whether an EPA-approved or established TMDL exists that covers the surface water. If yes, review the TMDL to determine whether the causes identified in the TMDL include siltation, suspended solids or nutrients.

NOTE 7.1 – The term “nutrients” includes Total Phosphorus and Total Nitrogen. If either of these pollutants or both are identified as a cause of impairment in lieu of “nutrients”, the effect is the same as if the cause is listed as “nutrients.”

Figure 7.7 – Use of eMAP to Identify TMDL Waters.



FAQ #8: My project will need to use non-discharge alternatives or ABACT BMPs due to discharges to impaired waters. What forms do I need to complete?

If you are applying for PAG-02 coverage, you will need to identify the post-construction discharge points that will release stormwater to impaired surface waters in Question 6 of the Stormwater Discharge Information section of the PAG-02 NOI (3800-PM-BCW0405b) along with a description of the E&S and PCSM BMPs that will be used to satisfy the requirement to use non-discharge alternatives or ABACT BMPs. The selected non-discharge alternatives or ABACT BMPs must be reflected on E&S and PCSM Plan Drawings.

If you are applying for an individual NPDES permit, you will need to complete Module 3, unless alternatives to non-discharge alternatives or ABACT BMPs are proposed that will satisfy regulatory requirements related to impaired waters. However, if you are completing Module 3 only because of impaired waters (i.e., your project will not discharge to special protection waters), you can omit responses to questions that ask you to explain the rationale for non-selection of non-discharge alternatives, since you are not required to evaluate non-discharge alternatives first before selecting ABACT BMPs.

FAQ #9: My project will need to use non-discharge alternatives or ABACT BMPs due to discharges to impaired waters. How do I determine which non-discharge alternatives or ABACT BMPs can be used?

- **Non-Discharge Alternatives** – DEP’s [Erosion and Sediment Pollution Control Program Manual](#) (E&S Manual) (363-2134-008) identifies some non-discharge alternatives for E&S Plans, which are also identified in the Antidegradation – E&S Plan section of Module 3. The Antidegradation – PCSM Plan section of Module 3 identifies BMPs that may qualify as non-

discharge alternatives for PCSM. Other options may be considered and used. Any single BMP or combination of BMPs that will individually or collectively eliminate the net change in stormwater volume, rate, and quality (pollutant loading) for storm events up to and including the 2-year/24-hour storm qualifies as a non-discharge alternative.

- **ABACT BMPs** – During construction, any BMP identified as ABACT (either HQ or EV) in DEP’s E&S Manual or on DEP’s [list of approved alternative E&S BMPs](#) may be used. For PCSM, any single BMP or combination of BMPs that will individually or collectively manage the net change in stormwater volume, rate, and quality (pollutant loading) for storm events up to and including the 2-year/24-hour storm qualifies as an ABACT BMP, including PCSM BMPs using the Managed Release Concept (MRC).

NOTE 9.1 – Non-discharge or ABACT BMPs must be selected for both E&S and PCSM Plans when there are discharges to impaired waters.

FAQ #10: I have determined that my project must use non-discharge alternatives or ABACT BMPs. Do these alternatives or BMPs need to be implemented site-wide or can they be implemented in certain areas of the site?

In general, the non-discharge alternatives or ABACT BMPs need to be implemented site-wide. This applies to non-discharge alternatives or ABACT BMPs implemented for both special protection waters and for impaired waters. For example, if a construction site has two entrances both would need to be rock construction entrances with wash racks (or an equivalent ABACT BMP). An applicant would not be able to use a rock construction entrance without wash racks for the site unless that area of the site drained to non-special protection or non-impaired waters. Similarly, perimeter E&S BMPs would need to be considered ABACT BMPs if the BMPs will treat stormwater from drainage areas of special protection or impaired waters.

However, for PCSM, not all site-wide stormwater must be treated by non-discharge alternatives or ABACT BMPs. If the net change up to and including the 2-year/24-hour storm for volume, rate, and quality is eliminated or managed through BMPs elsewhere on-site, there may be undetained areas in which stormwater is not treated by BMPs and regulatory requirements could be satisfied.

FAQ #11: The E&S Plan for my project will need to use ABACT BMPs due to discharges to impaired waters. How do I determine how many ABACT BMPs I will need to use within my E&S Plan?

In general, discharges to impaired surface waters from construction activities must be managed by ABACT BMPs prior to leaving the project site. At a minimum, all perimeter controls, pumped water filtering devices, and construction entrances should be rated as ABACT. Sites that are proposing sediment basins, sediment traps and temporary channels that discharge directly to surface waters should also be designed to ABACT standards. ABACT BMPs are summarized on pages 344, 345 and 346 of the E&S Manual and described in detail throughout the manual.

FAQ #12: Is a Managed Release Concept (MRC) BMP a non-discharge alternative or an ABACT BMP?

An MRC BMP is identified as an ABACT BMP. Please refer to the [MRC White Paper](#) and MRC Design Standard #13. An MRC BMP is not individually a non-discharge alternative but could be considered part of a non-discharge alternative if used in conjunction with other BMPs to achieve the non-discharge alternative definition (i.e., elimination of the net change in volume, rate and water quality up to the 2-year/24-hour storm event).

Permit Amendments

Please refer to DEP's [FAQ for Chapter 102 Permit Amendments](#) document for additional information.

FAQ #13: What if I have PAG-02 coverage or an individual permit and need to make a change – do I need to fill out the latest NOI or application?

- If the original approved NOI or application was submitted using the latest PAG-02 NOI (3800-PM-BCW0405, revised 12/2019 or later) or individual permit application (3800-PM-BCW0408, revised 12/2019 or later) forms, the permittee should submit any requests for **major amendments** using the same forms. The NOI or application package should be submitted in its entirety (see NOTE 12.1 below). The appropriate box on page 1 for major amendment should be checked, and any information in the NOI or application package (including but not limited to modules and drawings) should be updated, where appropriate, and highlighted in bold text or other means of identification for the benefit of DEP/CCD staff. In addition, all changes should be described in the Project Description field of the NOI or application.

NOTE 13.1 – New PNDI receipts and new [County and Municipal Notification Forms](#) (3800-FM-BCW0271b and c) are required for a major amendment if there will be increases to the earth disturbance area. The PNDI receipt and notification forms should cover the additional earth disturbance area.

- If the original approved NOI or application was submitted using the latest PAG-02 NOI or individual permit application forms, the permittee should submit any requests for **minor amendments** on the same forms. The appropriate box on page 1 for minor amendment should be checked, and the General Information, Applicant Information (PAG-02 only), Eligibility Information (PAG-02 only), Compliance History, and Certification sections must be completed, at a minimum. In addition, any other information in the NOI or application (including but not limited to modules and drawings) must be submitted when revisions have been made.
- If the original approved NOI or application was submitted using an earlier version of the PAG-02 NOI or individual permit application (i.e., revision date prior to 12/2019), the permittee can submit requests for major or minor amendments on the same forms, or the permittee may

submit the requests using the latest forms as described above. Anytime a previously submitted NOI or application is updated for an amendment request, the information that has changed should be highlighted in bold text or other means of identification for the benefit of DEP/CCD staff.

NOTE 13.2 – As described above, the use of “same forms” includes the NOI/application and PCSM Worksheets.

FAQ #14: If I am looking to make a change to my project and need to amend my permit, do I need to complete the new modules and PCSM Spreadsheet?

No, unless you have previously submitted the modules and printouts of the spreadsheet for original approval of coverage or permit issuance, in which case the modules and/or spreadsheet would need to be completed to reflect the changes. If the modules and spreadsheet were not used to obtain permit coverage originally, they do not need to be prepared for amendments. The modules and spreadsheet must be completed for all new projects and for all amendments where the original NOI or application included the modules and spreadsheet.

Completing the NOI/Application

FAQ #15: Are the PCSM worksheets in the Stormwater BMP Manual and prior NOI/application no longer required?

These worksheets are only required in one instance – where Riparian Buffer Module 4 is required due to the location of a project site within 150 feet of a perennial or intermittent river, stream, creek, lake, pond, or reservoir that is designated as High Quality Waters (HQ) or Exceptional Value Waters (EV), and in lieu of protecting, converting or establishing a riparian buffer, the applicant elects to conduct an equivalency demonstration in accordance with current DEP guidance. In such cases Worksheets 12 and 13 from DEP’s [Pennsylvania Stormwater BMP Manual](#) (BMP Manual) (363-0300-002) and Worksheets 14 and 15 from DEP’s [Riparian Buffer or Riparian Forest Buffer Equivalency Demonstration](#) (310-2135-002) guidance will need to be completed.

No other worksheets from the BMP Manual are required. DEP’s PCSM Spreadsheet may be used for the volume and rate components of the stormwater analysis required by 25 Pa. Code §§ 102.8(g)(2) and (3), respectively, and must be used for the water quality component of the stormwater analysis required by 25 Pa. Code § 102.8(g)(2). Projects that qualify as site restoration projects under 25 Pa. Code § 102.8(n) do not need to use the PCSM Spreadsheet or otherwise complete a stormwater analysis. The PCSM Spreadsheet is updated periodically based on feedback from the regulated community, and is available through DEP’s website at www.dep.pa.gov/constructionstormwater (select E&S Resources).

When an applicant elects to not use the PCSM Spreadsheet for volume and rate, the applicant must attach documentation to the NOI or application that demonstrates regulatory requirements will be

achieved. Such documentation could include the worksheets contained in the BMP Manual or equivalent information and supporting calculations.

Where an NOI or application is submitted for an amendment, and these worksheets were part of the original approved NOI or application, the worksheets can be updated and submitted or the new NOI/application and PCSM Spreadsheet can be used, at the applicant's discretion.

FAQ #16: When using the PCSM Spreadsheet, must I use the default settings?

Use of the default settings in the PCSM Spreadsheet will provide DEP/CCD with assurance that the stormwater analysis is technically sound and should facilitate reviews. However, DEP understands that the spreadsheet cannot accommodate every possible scenario for stormwater management, and therefore provides the option to override default settings with user-supplied information. All manually-entered information must be backed by supporting calculations or other documentation that is attached to the NOI or application.

FAQ #17: How has the water quality demonstration changed for the stormwater analysis?

DEP is transitioning to a new approach for the evaluation of water quality on project sites, as reflected in the PCSM Spreadsheet – Quality Worksheet. The approach still considers pollutant loading for Total Suspended Solids (TSS), Total Phosphorus (TP) and Total Nitrogen (TN) and the use of event mean concentrations (EMCs) for land covers. However, instead of utilizing BMP pollutant reduction efficiencies for structural BMPs, median outflow pollutant loads from structural BMPs are calculated based on the anticipated outflow volume at the 2-year/24-hour storm event and median outflow pollutant concentrations for appropriately designed and functional structural BMPs. Those structural BMP outflow loads are added to loads associated with untreated stormwater (i.e., the volume of stormwater that is not captured by structural BMPs) and compared with pre-construction pollutant loads.

When structural BMPs are in series, the efficiency of upstream BMPs is not considered. The volume reduced by those BMPs by infiltration, evapotranspiration and capture and reuse is considered. Ultimately the outflow from the last BMP in a series at the 2-year/24-hour storm is used to calculate pollutant loads.

FAQ #18: In the Quality Worksheet of the PCSM Spreadsheet, how should we reflect street sweeping? Should we enter the amount of credits in the Non-Structural BMP Water Quality Credits field and attach Worksheet No. 13 from the Stormwater BMP Manual?

The calculation of pollutant reduction credits for street sweeping may change in the future. Until then, applicants may calculate credits using the approach provided in the existing Stormwater BMP Manual, including but not limited to use of the Manual's Worksheet No. 13, report the credits in the Non-Structural BMP Water Quality Credits field of the PCSM Spreadsheet – Quality Worksheet, and attach the calculations to support the credits to the NOI or application.

FAQ #19: Are alternative design standards still allowed for volume, rate, and water quality?

Yes, applicants may propose alternative design standards for volume and water quality under 25 Pa. Code § 102.8(g)(2)(iv) and for rate under 25 Pa. Code § 102.8(g)(3)(iii). A thorough demonstration is needed to show that the alternative approach will be more protective than the design standard in Chapter 102 and/or will maintain and protect existing water quality. Use of the PCSM Spreadsheet in this instance is the same as if the Chapter 102 standards are used (i.e., Volume and Rate Worksheets are optional and Quality Worksheet is required). DEP/CCD may require additional review time for alternative design standards.

FAQ #20: Are standards from an approved and current Act 167 Plan still allowed for volume, rate, and water quality?

Yes, standards contained in an Act 167 Plan (including ordinances consistent with that plan) may be used if the plan has been approved by DEP and is current (i.e., the original plan or a revised or updated plan has been approved by DEP within the past five years). Use of the PCSM Spreadsheet in this instance is the same as if the Chapter 102 standards are used (i.e., Volume and Rate Worksheets are optional and Quality Worksheet is required). In the event an Act 167 Plan is not current, the standards from the plan may still be used as an alternative design standard.

FAQ #21: The municipality in which the project is located has adopted a stormwater ordinance based upon an approved and current Act 167 Plan. Is designing to the municipal stormwater ordinance considered the same as designing to the approved and current Act 167 Plan?

No, a municipal ordinance (stormwater or otherwise) would not be considered the same as an approved and current Act 167 Plan under 25 Pa. Code §§ 102.8(g)(2) and 102.8(g)(3). The design standards identified in the Model Ordinance within the approved and current Act 167 Plan would be the design standards that have to be met if the PCSM Plan will be designed to an approved and current Act 167 Plan. However, the plan preparer could utilize the municipal ordinance as an alternative design standard under 25 Pa. Code §§ 102.8(g)(2)(iv) and 102.8(g)(3)(iii).

FAQ #22: What if the Act 167 Plan is expired (> 5 years old) but the municipality's stormwater ordinance refers to the expired Act 167 Plan for rate requirements? How would an applicant complete Questions 1 – 3 in the Stormwater Analysis – Runoff Volume and Stormwater Analysis – Peak Rate sections of PCSM Module 2?

The applicant can decide to use the “expired” Act 167 Plan as the basis for their proposed design standard; if that is the case, the applicant should check the box for Question #3 in the Stormwater Analysis – Runoff Volume and Stormwater Analysis – Peak Rate sections (“An alternative design standard is being used”). Question #1 cannot be checked in either section for this scenario (“The

design standard is based on volume management requirements in an Act 167 Plan approved by DEP within the past five years”).

However, the applicant can also decide to design their site to meet the municipal requirements and the “base” regulatory requirements. If this were the case, the applicant would check Question #2 in the Stormwater Analysis – Runoff Volume and Stormwater Analysis – Peak Rate sections of Module 2 (“The design standard is based on managing the net change for storms up to and including the 2-year/24-hour storm”).

FAQ #23: The NOI and application require a wetland determination if hydric soils are present. Is this a new requirement?

No, a determination of whether wetlands are present if indicators exist has been a component of Chapter 102 PCSM site characterization requirements since 2010. Wetlands are surface waters and sensitive features that must be protected to the extent practicable under Chapter 102.

FAQ #24: Is the term "wetland determination" defined? Additionally, what are some components to look for in a determination?

There is no regulatory definition of the term “wetland determination”. However, generally an accepted wetland determination would include a narrative which identifies who performed the determination, how the determination was performed, what the determination included and at least one wetland data sheet (from the applicable regional supplement). This is consistent with Chapter 105 requirements for standard individual permit applications.

FAQ #25: How old of a wetland delineation will be acceptable?

There is no regulatory requirement relating to the age of a wetland determination or delineation under Chapters 102 or 105. However, the generally accepted practice is that for any determination or delineation that is over five (5) years old should either be re-determined, re-delineated or the previous findings verified as still accurate. There may be other things to consider when looking at whether or not a site has to be looked at again, including whether or not there were any site changes before or after the investigation.

The wetland determination or delineation should be completed in accordance with the US Army Corps '87 Manual and the appropriate Regional Supplements.

FAQ #26: Since consultants may meet the definition of operator, should the consultant be listed in the Operator Information section of the NOI or application?

The definition of an operator includes those that have oversight responsibility of an earth disturbance activity on a project site who has the ability to make modifications to the E&S or

PCSM Plans; however, the definition does not explicitly include “consultant.” If a consultant meets this criterion of an operator then yes, the consultant should be listed in the Operator Information section of the NOI and application. If not, it is acceptable for the permittee to follow up after permit issuance and submit a [Co-Permittee Acknowledgement Form](#) for the consultant.

FAQ #27: Is Act 537 approval needed prior to issuance of the permit or authorization of permit coverage? Or is it required prior to start of earth disturbance activities?

Act 537 approval, if necessary, must be obtained prior to the start of earth disturbance activities. An Act 537 approval is not necessary to deem an NOI or application complete or for DEP/CCD to authorize permit coverage or issue a permit.

FAQ #28: What if an Act 2 clearance letter has been issued by DEP, but in the letter, there are restrictions identified that are contained in the Environmental Covenant, such as following soil management plans or do not disturb soil cover? Will restrictions such as this require an Individual Permit?

Yes, this would likely require an individual NPDES permit in order to address project-specific requirements. In such cases DEP should be consulted prior to submission of an NOI or application.

FAQ #29: The PAG-02 NOI Instructions indicate that if soil contamination is present such that soil pollutant concentrations exceed Chapter 250 (Act 2) MSCs, the project is ineligible for PAG-02 coverage unless a site-specific cleanup standard has been met or the applicant provides documentation of naturally occurring contamination. Some pollutants are known to naturally exist in certain soils at levels exceeding Act 2 MSCs. What evidence does DEP/CCD need to allow a project to proceed under PAG-02?

DEP/CCD can accept evidence of natural background contamination or widespread atmospheric deposition that is collected in accordance with Appendix A of DEP’s Management of Fill Policy (258-2182-773). When CCDs are responsible for reviewing PAG-02 NOIs, CCDs will consult with DEP on a determination of PAG-02 eligibility. Also see FAQ #55.

FAQ #30: Is there a requirement to include the off-site discharge analysis information as part of E&S Module 1?

The requirement for providing an off-site discharge analysis (for both during and after earth disturbance activities) has not changed. If the applicant proposes an off-site discharge, the applicant is required to complete an off-site discharge analysis as part of the E&S and PCSM Plans.

FAQ #31: In E&S Module 1 does Table 1 need to be filled out for a PAG-02 NOI?

No, for PAG-02 NOIs and individual permit applications Table 1 does not get filed out. Table 1 in E&S Module 1 would only be completed for PAG-01 NOIs and Small Project Individual Permit applications, when those become available.

FAQ #32: Can you clarify what is meant by BMPs in series and how to identify them in PCSM Module 2?

In series means in sequence such that the outflow of one BMP is conveyed to the next downstream BMP. The downstream BMP may or may not receive additional stormwater from other drainage areas. BMPs in series should be identified in the PCSM Plan Information and Stormwater Analysis – Runoff Volume sections of PCSM Module 2. If a BMP is in series, the BMP ID number of the BMP that it is receiving flow from should be identified in the Series column of the Stormwater Analysis – Runoff Volume section of Module 2 (if the PCSM Spreadsheet, Volume Worksheet is not submitted).

FAQ #33: How should the Compliance History section of the NOI or application be completed?

For the Compliance History section, DEP/CCD is particularly interested in ensuring that applicants report violations that are the subject of an enforcement action, including Notices of Violation (NOVs), at the project site that is the subject of the NOI or application or at any other facility or site in Pennsylvania over the past five years. If compliance concerns are identified by DEP/CCD during on-site inspections that are promptly addressed and an enforcement action is not issued or executed it does not need to be reported.

FAQ #34: For site restoration plans, does the enumeration of BMPs need to be provided in Question 1 of the PCSM Plan Information section of PCSM Module 2 or is the checkbox for restoration the only item needed on that page?

By checking the box that the entire project qualifies as a site restoration project, the applicant is certifying that the PCSM BMP for the project is site restoration and nothing further is needed in Question 1 of the PCSM Plan Information section. The NOI and Application Instructions identify which sections can be skipped for projects that are entirely site restoration. However, the PCSM Plan drawings must include the necessary information to properly implement the site restoration activity.

FAQ #35: Can you clarify what calculations are needed for site restoration activities, as it appears that the regulations and the NOI and application require supporting calculations?

Those portions of site restoration projects that qualify under 25 Pa. Code § 102.8(n) are not required to provide a stormwater analysis for rate, volume and water quality management under

25 Pa. Code § 102.8(g). However, they are still required to provide any other ancillary calculations related to the PCSM Plan that may be applicable (e.g., swale/channel calculations).

FAQ #36: What is the best way to fill out PCSM Module 2 if part of the project contains site restoration? For example, a development site that also has an off-site utility extension.

The applicant should fill out PCSM Module 2 as identified in the instructions. For any area that is part of a site restoration activity, the area can be identified as a PCSM BMP for that discharge point.

FAQ #37: Is soils testing required if infiltration BMPs are not proposed?

A pre-development site characterization and assessment of soil and geology is required in accordance with 25 Pa. Code § 102.8(g)(1). It is up to the plan preparer to determine which type of testing is required, and for DEP/CCD to review the adequacy of such testing. Generally, yes, plan preparers should be performing some kind of evaluation of their BMP location, regardless of what type of BMP it is.

FAQ #38: If the plan preparer is not a licensed professional, is Standard E&S Worksheet #22 still required to demonstrate their training and experience?

No, the plan preparer no longer has to submit Standard E&S Worksheet #22. In the E&S Plan Developer section of E&S Module 1, the plan preparer only has to check the box identifying that they are trained and experienced, and if they are a licensed professional, they should check the appropriate box as well.

E&S PLAN DEVELOPER	
<input checked="" type="checkbox"/> I am trained and experienced in E&S control methods.	<input type="checkbox"/> I am a licensed professional.
Name: _____	Title: _____
Company: _____	Phone No.: _____
Address: _____	Email: _____
City, State, ZIP: _____	License No.: _____
License Type: _____	Exp. Date: _____
_____	_____
E&S Plan Developer Signature	Date

If DEP/CCD has concerns about someone’s training and experience, appropriate documentation of a plan preparer’s qualifications may be requested.

FAQ #39: The NOI, application and modules require an Applicant Signature in multiple locations. Are original ink signatures required in each location indicated on the forms?

Yes, an original signature (not digital) is needed on at least one copy of the NOI, application, and applicable modules until such time that DEP is able to offer electronic (online) versions of these forms. However, this requirement may be waived by DEP when deemed appropriate. For example, during the COVID-19 pandemic emergency declaration, DEP has waived the requirement for original signatures, and applicants can either 1) type their name or 2) provide a photocopy of their original signature and DEP/CCD will accept the forms.

FAQ #40: What information is required for permit renewal NOIs or applications? Do permittees need to submit renewal applications using the latest forms?

For NOIs submitted to renew coverage under PAG-02, the General Information, Applicant Information, Eligibility Information, Compliance History and the Certification sections must be completed on the latest NOI (3800-PM-BCW0405b), at a minimum. Additionally, if applicable, the permittee must attach a letter specifying that the previously approved E&S and PCSM Plans have not been revised, an indication of what work has been completed, what work remains on the project site, and verification that the permittee remains eligible for coverage under the General Permit.

For applications submitted to renew individual permits, the General Information, Compliance History and the Certification sections must be completed on the latest application (3800-PM-BCW0408b), at a minimum. Also, a General Information Form (GIF) should be submitted so that DEP/CCD has the permittee's latest contact information. Additionally, if applicable, the permittee must attach a letter specifying that the previously approved E&S and PCSM Plans have not been revised, an indication of what work has been completed, and what work remains on the project site.

FAQ #41: Can a permittee choose to renew/extend their General Permit coverage or individual permit term as part of a major amendment by checking the box for Major Amendment and the box for Renewal on the application?

Yes. If a renewal NOI or application is submitted that includes changes, whether those changes are considered a minor or major amendment, DEP/CCD can issue coverage for a new term. For PAG-02 that term could extend to December 7, 2024 at the latest. For individual permits a new 5-year term may be authorized.

FAQ #42: Are we correct in thinking that E&S and PCSM Plan narratives are no longer required with the submission if the NOI or application?

E&S and PCSM Plans must include a narrative component. Use of E&S Module 1 and PCSM Module 2 satisfies this requirement and is required for all PAG-02 NOIs and individual permit applications. Use of Antidegradation Analysis Module 3 and Riparian Buffer Module 4 for individual permit applications also satisfies the narrative requirements for E&S and PCSM Plans when used. Submission of additional documents supporting the narrative may be necessary to clarify any aspect of the narrative responses in the module.

FAQ #43: When should I transmit county and municipal notification forms to the county and municipality?

You should transmit the County and Municipal Notification forms to the county and municipality, respectively, at least 30 days prior to submitting the NOI or application package to DEP/CCD. The applicant should send the notification forms using a method that confirms receipt (e.g., certified mail). If the county or municipality does not return the forms within 30 days, you may submit a copy of the forms along with proof of receipt by the county or municipality with the NOI or application package. If the notification forms are received by the applicant after the NOI or application package is submitted to DEP/CCD, you should submit the forms to DEP/CCD to update the NOI or application.

NOTE 43.1 – If a county or municipality is an applicant, the county or municipality does not need to mail a copy of the form to itself, but the form should be completed in its entirety so that DEP/CCD is aware of consistency with Act 167 Plans, ordinances, etc.

FAQ #44: I previously provided notification to the county and municipality using the old style of notification. Now I am getting ready to submit the NOI for the project. Am I required to redo the county and municipal notifications using the new forms?

No, if the county and/or municipal notifications were completed before the new forms were published to DEP's eLibrary, the applicant will not be required to provide new notifications using the new forms. In this case the applicant should provide the previous notification, proof of receipt and any responses they received from the county or municipality.

FAQ #45: I had previously submitted an NOI, but I withdrew my NOI. I am now getting ready to submit for another NOI for the same project. Am I required to redo the county and municipal notifications?

If you will be resubmitting an NOI or application within 90 days of the submission of previous county and municipal notification forms, whether the resubmission is due to the withdrawal, return or denial of an NOI or application, the submission of new county and municipal notification forms is unnecessary. Due to the possibility that county and/or municipal requirements may have changed, any resubmission of an NOI or application beyond 90 days from the time the notification

forms were originally submitted to the county and municipality should include new notification forms.

Miscellaneous

FAQ #46: Can we submit pre-application meeting requests to DEP/CCD via e-mail? Is there a preferred form that should be used?

Yes, pre-application meeting requests can be submitted by email. You should use DEP's [Pre-Application Meeting Request Form](#) (3800-FM-BCW0271e) or equivalent to request pre-application meetings.

FAQ #47: Is the Rational Method no longer accepted?

The Rational Method cannot be used to satisfy the regulatory requirements under 25 Pa. Code §§ 102.8(g)(2) and 102.8(g)(3), as the Rational Method does not calculate the actual runoff volume and does not analyze a 24-hour storm event. This is not a change or update. The Rational Method could be used as an alternative design standard for rate management in accordance with 25 Pa. Code § 102.8(g)(3)(iii).

FAQ #48: What if the selected design standard is an approved and current Act 167 Plan, can the Rational Method be used to meet that standard?

The answer will depend on what is within the Act 167 Plan. If the Act 167 Plan has a standard for a 24-hour duration storm event or another approach in which the Rational Method is not acceptable, then an applicant would not be allowed to use the Rational Method under the Act 167 Plan Standard.

FAQ #49: What if the Act 167 Plan does have the 24-hour duration storm event design standard, but the applicant has provided a letter of consistency from the municipality where the Rational Method was used and allowed?

The answer remains the same as above, that if the design standard in the Act 167 Plan is a 24-hour duration storm event, the Rational Method cannot be utilized, even if a consistency letter is provided. DEP (and delegated CCDs) cannot cede decision-making authority to another entity, so DEP/CCD must review the information independently and decide whether the information meets the regulatory requirements.

FAQ #50: What information must be submitted to support use of an alternative design standard?

This answer is very project dependent. The applicant must provide the demonstration that their proposed alternative design standard is either as protective as the design standards in 25 Pa. Code §§ 102.8(g)(2) and (3) or it will maintain and protect existing water quality and existing and designated uses by maintaining the pre-construction site hydrologic impact.

FAQ #51: How has the permitting process for individual permits changed?

DEP will publish notice in the *Pennsylvania Bulletin* of the receipt of a complete individual permit application at the time that a tentative determination on the application is made. DEP will also notify the applicant of the tentative decision. There will be a 30-day comment period, which may be extended up to 15 additional days, and an opportunity for a public hearing if there is significant public interest. If DEP's tentative decision is to issue the permit, a draft individual permit will be transmitted to the applicant for review and comment. The applicant will also be provided a notice that must be posted at the project site and/or the applicant's premises for 30 days. DEP's final determination on the application will be published in the *Pennsylvania Bulletin*.

FAQ #52: When can an operator begin work on a project site?

An operator who is a co-permittee may begin work on a project site immediately upon the signing of the [Co-Permittee Acknowledgement Form for Chapter 102 Permits](#) by both the permittee and the operator, provided that the pre-construction meeting has taken place (unless waived by DEP/CCD). The Form must be submitted to DEP/CCD (the office that approved the permit). DEP/CCD will not generally provide an acknowledgement or approval of the addition of a co-permittee. In the event DEP/CCD objects to the addition of the co-permittee, the permittee and operator will be notified in writing.

FAQ #53: Sometimes we are on tight schedules and have trouble scheduling a pre-construction meeting. If DEP/CCD does not have availability to attend a scheduled pre-construction meeting, can we hold the pre-construction meeting without DEP/CCD, or can we begin earthmoving without holding a pre-construction meeting?

A permittee must provide DEP/CCD at least seven (7) days' notice of the scheduled pre-construction meeting. This is to give DEP/CCD sufficient time to be able to adjust their schedule to be able to attend the pre-construction meeting. If DEP/CCD is unable to attend the scheduled pre-construction meeting, then the permittee must still hold the meeting without DEP/CCD (unless DEP/CCD waives the need to have the pre-construction meeting). DEP/CCD will not require the permittee to reschedule or postpone the pre-construction meeting if proper notice was provided. However, construction resulting in stormwater discharges from earth disturbance may not commence until a pre-construction meeting has been held (unless waived by DEP/CCD).

FAQ #54: If I need to continue my permit coverage beyond the expiration date of my permit, by when do I need to submit an NOI or application to renew my permit coverage?

Permittees that received PAG-02 coverage prior to December 8, 2019 (i.e., under the 2012 or 2017 versions of PAG-02) must submit an NOI to renew coverage at least 180 days prior to the expiration date of coverage, unless a later date is granted by DEP, and unless a Notice of Termination (NOT) is submitted and approved prior to the coverage expiration date.

Permittees that received PAG-02 coverage on or after December 8, 2019 (i.e., under the 2019 version of PAG-02) – If stormwater discharges associated with earth disturbance activities will continue past December 7, 2024, permittees must renew their coverage using a mechanism that has yet to be determined. DEP anticipates publishing and distributing notice of the mechanism in 2024.

Permittees that have individual NPDES permits must submit an application to renew the permit at least 180 days prior to the permit expiration date, unless a later date is granted by DEP, and unless an NOT is submitted and approved prior to the permit expiration date.

FAQ #55: My project site currently receives stormwater flows from off-site, upgradient properties, and will continue to receive those flows following construction. How do I reflect the management of these flows in my stormwater analysis for the PCSM Plan?

In general, if the land use or cover of the off-site properties are not changing, there should be no difference in volume and water quality (pollutant loading) between pre- and post-construction conditions at the 2-year/24-hour storm event. For purposes of PCSM Module 2 and the PCSM Spreadsheet, those off-site drainage areas do not need to be presented. However, off-site stormwater will often affect routing, peak rate calculations and rate control BMPs. Appropriate modeling or calculations for rate must therefore include such off-site areas. A PCSM Plan Drawing should identify all off-site areas that will drain onto a project site, and PCSM Module 2 or a narrative supplement attached to PCSM Module 2 should address how the design accounted for additional flows beyond the project site.

FAQ #56: My project discharges to a Municipal Separate Storm Sewer System (MS4). Am I required to submit any additional information with my NOI/application package?

In order to answer the question, the applicant must determine if they will have a net change (increase) in stormwater runoff volume, rate or water quality (pollutant loading) for storm events up to and including the 2-year/24-hour storm. If there is no increase, then nothing additional is required related to the discharge to an MS4. However, if there is an increase, written consent of the MS4 permit holder must be provided. This is an eligibility condition under the PAG-02 General Permit, and DEP cannot issue an Individual Permit without such consent.

NOTE 56.1 – The answer also applies to discharges to a Combined Sewer System (CSS).

NOTE 56.2 – Written acceptance must be provided for any MS4 (or CSS) permit holder which receives the net change in stormwater runoff before reaching the receiving surface water. The applicant may utilize DEP’s

FAQ #57: What must be included with the written consent from an MS4 permit holder?

The written consent must clearly identify that the MS4 (or CSS) permit holder accepts the net change (increase) in stormwater runoff into their system. This consent can be provided by the permit holder themselves or by an entity that is delegated the authority of the permit holder.

NOTE 57.1 – The written consent should identify the amount (volume) of the net change that the permit holder is accepting, although not required.

NOTE 57.2 – When discharging to a PennDOT right-of-way (or MS4), a Highway Occupancy Permit (HOP) may be required from PennDOT (any questions regarding the need for an HOP must be directed to PennDOT). The authorization letter from PennDOT for the HOP (or the HOP itself) will serve as PennDOT’s acceptance of any net change in stormwater runoff that discharges to their MS4.

FAQ #58: I received NPDES permit coverage for a 10-lot subdivision. I completed construction on 8 of the lots, and I sold the remaining two lots to two parties. I would like to terminate my permit coverage – how can I accomplish this?

If earth disturbance is planned for the remaining two lots, the earth disturbance will need NPDES permit coverage because the disturbance was part of the original common plan of development or sale. This is true even if earth disturbance on either lot or both lots will be less than one acre. The developer (permittee) has two options to relinquish permit coverage:

- The permittee can transfer NPDES permit coverage to the owners of the remaining lots, using DEP’s transfer application (3800-PM-BCW0041b), if the owners of the remaining lots are willing to assume coverage. In this case the permit ID number would not change.
- The permittee can submit an NOT to terminate coverage. However, the NOT will not be approved unless and until NPDES permit coverage is approved for the remaining lots. In this case the owners of the two remaining lots may submit separate NOIs or applications for coverage or may submit a joint NOI or application as co-applicants.

FAQ #59: What responsibilities do I have as an applicant for PAG-02 coverage or an individual permit related to soil contamination and the use of clean or regulated fill?

There are two separate considerations, explained in detail below: 1) in-situ or on-site soils and 2) fill material that will be imported to the project site.

On-Site Soils

[DEP's Management of Fill Policy](#) (Document ID No. 258-2182-773) does not apply to the management of on-site soils. However, DEP has established criteria for those seeking coverage under PAG-02 for on-site soils that will be disturbed:

- For residential projects, soil pollutant concentrations may not exceed the residential medium-specific concentrations (MSCs) contained in Appendix A, Table 3 (Organic Regulated Substances in Soil) and Table 4 (Inorganic Regulated Substances in Soil) of 25 Pa. Code Chapter 250 unless 1) evidence is provided that a site-specific cleanup standard has been met (e.g., Act 2) or 2) a demonstration is made following the protocols in Appendix A of DEP's Management of Fill Policy that soil pollutant concentrations are naturally occurring or contamination is the result of widespread atmospheric deposition.
- For non-residential projects, soil pollutant concentrations may not exceed the non-residential MSCs contained in Appendix A, Tables 3 and 4 of 25 Pa. Code Chapter 250 unless either of the criteria noted above for residential projects is met.

The applicable MSC to compare soil pollutant concentrations with is the more stringent of the applicable "Generic Soil to Groundwater Value" and the "Direct Contact Numeric Value" in Tables 3 and 4 (residential or non-residential value depending on the project site).

These limitations have not been established on the use of an individual NPDES permit.

DEP expects that the same level of environmental due diligence that must be conducted under DEP's Management of Fill Policy for imported fill material will be conducted for on-site soils. This applies to both PAG-02 and individual permits. Analytical testing of soils is unnecessary unless evidence of the release of a regulated substance is indicated through environmental due diligence. If analytical testing is conducted applicants should follow the guidelines contained in Appendix A of DEP's Management of Fill Policy. When there is evidence of the release of a regulated substance to on-site soils, and analytical testing has been completed, the analytical reports must be submitted with the PAG-02 NOI or individual permit application. DEP/CCD will use this information in two ways:

- For PAG-02 NOIs, DEP/CCD will verify that criteria for use of PAG-02 are met; and
- For both PAG-02 NOIs and individual permit applications, DEP/CCD will consider the ultimate disposition of the soils, such as utilization of the soils in areas of PCSM BMPs.

Fill Imported to Project Site

Fill that is imported to the project site must meet the following criteria for both PAG-02 and individual permits:

- The fill must be clean fill as defined by DEP's Management of Fill Policy; or

- If the fill is not clean fill, it may be used on an Act 2 site in accordance with standards established by DEP's Land Recycling and Environmental Remediation Standards Program; or
- If the fill is not clean fill and is not used on an Act 2 site, it may be used when it is approved for use on the project site as regulated fill under DEP's Waste Management General Permit No. WMGR096.

Environmental due diligence must be conducted on imported fill as specified in DEP's Management of Fill Policy. Analytical testing of fill is unnecessary unless evidence of the release of a regulated substance is indicated through environmental due diligence. If analytical testing is conducted applicants should follow the guidelines contained in Appendix A of DEP's Management of Fill Policy.

If the fill does not meet any of the criteria above, DEP will not authorize use of the fill under PAG-02 or an individual permit. The applicant may indicate on the NOI or application that authorization is being pursued under DEP Waste Management General Permit No. WMGR096, which will allow DEP/CCD to initiate review of the NOI or application. However, DEP/CCD will not approve coverage or issue a permit until the fill is covered by WMGR096.

If the applicant has not identified the source of fill at the time the NOI or application is submitted, or if it is determined following permit approval that fill will need to be imported to the site, the PAG-02 and individual permit require the use of environmental due diligence for the fill, analytical testing if there is evidence of a release of regulated substances, and completion of DEP's Certification of Clean Fill Form (FP-001). The [electronic version of FP-001](#) should be used for this purpose, and the person utilizing the fill (permittee) must retain a copy of FP-001 on-site for review by DEP/CCD upon request.

FAQ #60: What restrictions exist on the use of contaminated soils or fill within BMPs?

DEP discourages the use of contaminated materials as media for E&S and PCSM BMPs, whether the material consists of on-site soils or imported fill. The risk-based pollutant MSCs contained in 25 Pa. Code Chapter 250 were not developed assuming a predominantly wet environment. Certain pollutants may leach to groundwater under such conditions. In other words, while the Chapter 250 MSCs establish thresholds for on-site soils and clean/regulated fill, the MSCs were not developed in a way that envisioned the use of these materials in E&S and PCSM BMPs.

As a general rule, DEP recommends that pollutant concentrations (whether in on-site soils or in imported fill) not exceed 10% of the residential or non-residential MSCs in Chapter 250 for residential and non-residential sites, respectively when soils or fill are used in the construction of or otherwise lie beneath E&S and PCSM BMPs. This does not apply to naturally occurring contamination. DEP/CCD will not request analytical testing to evaluate this criterion unless there are specific causes for concern for a particular project site.

FAQ #61: What land cover and curve number (CN) should a designer use to calculate post-construction stormwater runoff volume for artificial turf that will be used for an athletic field?

If gravel, stone or other media is used for retaining stormwater beneath artificial turf, the land cover should be considered impervious (CN = 98). If artificial turf is placed directly on soil (or on a membrane or geotextile that is not designed to retain stormwater), the land cover should be considered fallow (bare soil) with CN values of 77, 86, 91, and 94 for HSG A, B, C, and D soils, respectively.

FAQ #62: I own a project site in which historically there was far more impervious surface than exists now. Buildings were demolished and there was no reconstruction for several years. I am now planning to redevelop the site. Can I base the stormwater analysis on the historical land use, prior to the reduction in impervious, for the pre-construction condition?

In general, a stormwater analysis for PCSM should be completed using the pre-construction land cover that exists at the time the Chapter 102 permit application or NOI is submitted, with the following exception. If, as part of a common plan of development, the land cover (considered the “historic land cover”) is altered on the project site to prepare for new development, a stormwater analysis that is completed after the alteration can consider the historic land cover as the pre-construction condition when:

1. The Chapter 102 permit application or NOI reflects both the alteration of the historic land cover and the proposed development are part of the same common plan of development or sale; OR
2. The permit application and associated stormwater analysis for the proposed development is submitted less than five years following the alteration of the historic land cover; AND
3. At least 20% of the historical land cover impervious surface is treated as meadow in good condition or better in accordance with 102.8(g)(2)(ii) (unless regulatory exceptions apply); AND
4. Any approvals that were necessary for the historic land cover alterations were obtained prior to conducting the alterations.

Example 62.1 – A developer plans to demolish a structure and remove a parking lot in order to redevelop a site. Prior to the impervious reduction, the developer obtains Chapter 102 permit coverage and presents drawings that illustrate the reduction as well as future development. This analysis may consider the historic land cover because the land cover change is part of the same common plan of development or sale.

Example 62.2 – The developer in Example 62.1 conducts the demolition and terminates their Chapter 102 permit coverage. Four years later the parcel is purchased and a stormwater analysis is completed and submitted for proposed development. This analysis may consider the historic land cover because the land cover change occurred less than 5 years ago.

Version History

Date	Version	Revision Reason
8/23/2021	1.5	Added new FAQ #11 (relating to ABACT BMPs).
12/4/2020	1.4	Added new FAQ #61 (relating to historic land cover and stormwater analysis) (renumbered to #62).
11/12/2020	1.3	Added new FAQ #60 (relating to artificial turf) (renumbered to #61).
4/10/2020	1.2	Added new FAQs #20 (relating to Act 167), #47 and #48 (relating to the Rational Method and Act 167 Plan standards), #49 (relating to alternative design standards), #58 (relating to soil contamination and fill material), and #59 (relating to use of contaminated soils or fill for BMPs), and updated FAQ #38 to include allowance of electronic signatures when deemed appropriate by DEP. (These FAQs have since been renumbered).
2/5/2020	1.1	Added new FAQs #42, 43, 51, 52, and 53 (since renumbered).
1/23/2020	1.0	Original