

2016 Annual 102-105 Training

Q & A

Day 1 – Agriculture

1. If Ag E&S Plan and MM Plan are supposed to mirror each other, why not combine them into one plan and reduce the redundancy for both regional agencies and the farmer?

Answer: The two separate regulations that address Ag E&S and MM Plans require specific planning documents. In the future, if these regulations are amended, it may be possible to provide regulatory requirements that may allow for a single planning document.

2. What is the status of the DEP Release of Records form, needed to start inspections?

Answer: The DEP Release of Records form has been posted on the Chesapeake Bay Office website. It has also been distributed electronically to the Bay Districts.

3. On rented land where owner is not the operator, is the owner required to have a copy of the ag E&S plan? If there is more than one renter, does he need copies of all plans for the property?

Answer: As per Chapter 102.4(a)(3), the landowner is jointly and individually responsible for the E&S Plan. The landowner must have copies of the Ag E&S plans not only because it is required, but also so that he/she knows what is planned to be implemented on his land.

4. If a farmer has developed and implemented an ag E&S plan w/conventional (moldboard) tillage and then converts to no-till on that operation, does the plan still meet 102 standards if only the tillage has changed?

Answer: This plan would be acceptable under DEP SOP for the Initial Ag Inspections. However, this plan does not meet the regulatory standard and the operator should be advised such and asked to update the plan when they can to reflect the more environmentally friendly operation he or she currently has.

5. So there is no requirement on which soil loss equation is used, as long as the equation says soil loss is below T? Can use USLE, RUSLE, RUSLE 2 or something else?

Answer: Chapter 102.4 does not specify which soil loss equation must be used to determine the maximum allowable soil loss (T) over the rotation.

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6. If a farmer writes his/her ag E&S plans, the plans cannot be counted by the CAST (Chesapeake Assessment Scenario Tool). Is that correct?

Answer: To be “counted” in the Bay model, certain plans require that a trained individual (Conservation District or NRCS staff, or certified private consultant) be involved in the development of the plans. As such, if a farmer has no training and prepares his plans without any input/oversight/assistance from a trained individual, then no credit can be given. However, if the farmer had some training, if she had some assistance while developing the plan, or had some oversight/review of the plan when it was being input into a system to be “counted” then it could potentially be counted in the Bay Model. There may be an opportunity to count the plan if it was submitted to a trained staff person for technical review/oversight.

7. At the beginning of presentation you stated that ag E&S plans do not have to be done by a certified planner. At the end under Chesapeake Bay Reporting, it states plan must be done by a certified private consultant.

Answer: Ag E&S Plans do not need to be developed by a certified planner to meet Pennsylvania regulatory requirements under Chapter 102. However, the Chesapeake Bay Program uses different standards that are applied across six states. The Chesapeake Bay Program’s definition specifies that the plans need to be developed by Conservation District, NRCS, or certified private consultants and meet technical standards. Plans developed by Conservation District and NRCS staff, or certified consultant will meet technical standards, which means they can be reported for credit in the Bay Model.

8. Re: Bay reporting and the Chesapeake Assessment tool – are plans done by individual farmers through PAOneStop OK for Bay reporting?

Answer: Plans developed by farmers will not count for Bay reporting. However, if the farmer had training, was assisted by a District, NRCS, or certified private consultant in the development of the plan, or if the plan was submitted for review/oversight to any of the above to make sure it meets the criteria set by the Bay Program, then it can potentially be counted for Bay reporting.

9. When are completeness and technical review of ag E&S plans required? Bay counties only?

Answer: The requirement of Ag E&S plan review is contingent upon a number of things, which includes if the operation is located within the Bay watershed. A plan review may be necessary in a complaint situation or to meet municipal requirements (i.e. requirements to obtain building permits).

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10. Are CDs permitted to charge a fee for ag E&S plan design and for review? If so, could PACD or DEP poll CDs to determine who is charging?

Answer: There is nothing that states that CDs cannot charge a fee for planning and/or review of Ag E&S Plans. Many districts provide their fee schedule on their website, which is open to the public. That would be a decision for PACD to make as to if it would be prudent to poll the districts on fees charged for planning, review, or any other activity performed by the District.

11. Is the definition of a conservation plan in Chapter 102.1 or 102.4 the same definition that NRCS uses?

Answer: No. The definition, as found on NRCS website for an NRCS Conservation Plan is as follows – “A conservation plan is the record of decisions and supporting information for treatment of a unit of land meeting planning criteria for one or more identified natural resource concerns as a result of the planning process.” Whereas the definition of conservation plan in Chapter 102 is – “A plan that identifies conservation practices and includes site specific BMPs for agricultural plowing or tilling activities and animal heavy use areas.” In this sense, Chapter 102 defines a conservation plan that would be developed to meet Chapter 102 requirements.

12. Can you provide any information about the tablets that will be provided to CDs for PracticeKeeper implementation? What will be the IT support provided? I need to update my IT department concerning what will be coming.

Answer: We are currently working through the contracting phase to allocate the funds to the Bay districts to purchase tablets/laptops to use PracticeKeeper.

13. When does earth disturbance become exempt from 1 acre NPDES threshold? Example: person says they want to convert 1 acre of forest land into hay. He plans on doing timber harvest one year, then grubbing the following year. However, he will not be planting hay immediately after grubbing. Follow-up question: What type of plan does he need?

Answer: All phases of agricultural land clearing projects for new cropland should be addressed via 102.4(a). This would include having written plans for 1) the timber harvest component, 2) the clearing and grubbing component and 3) the continued cultivation of the field (traditional ag E&S/conservation plan). All phases of the project should have the appropriate BMPs to minimize the potential for accelerated erosion and sedimentation. For phases 1 & 2, these would be not be traditional Ag-BMPs, but would be those specific to timber harvest and construction activities. There are no NPDES Permit or E&S Permit requirements associated with agricultural land clearing/cropland conversion projects.

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14. How is it that PSU survey could remain anonymous but DEP is pressing CDs to give them names and addresses? The model does not need names!

Answer: These are two separate issues. Penn State's data collection effort was designed to provide BMP data to be included in the Bay model and, as you correctly stated, the model does not need names. However, the ag inspection effort is to assess compliance with Pennsylvania's environmental regulations. It is not a Chesapeake Bay model issue. Pennsylvania environmental regulations require many things that do not involved the Chesapeake Bay model. PA DEP and EPA require compliance with existing laws and regulations and that is why names and addresses are part of the inspection program.

15. Matt Royer mentioned about a 95% degree of certainty of the accuracy of this survey. What is the degree of certainty in the Chesapeake Bay Model?

Answer: This question is best addressed by US EPA and the Chesapeake Bay Program.

16. Will CD's know who was visited by Penn State Extension? (For verification of BMPs)

Answer: No. The identification information of survey respondents and the operations that were visited in the follow-up verification are held strictly by Penn State and will not be released.

17. Are the GIS layers up to date (2016-2017)?

Answer: All layers used in PracticeKeeper will be as up to date as possible.

18. We have a database of ~1,000 farmers. Is there any hope of merging our info into PracticeKeeper in the future?

Answer: There is a possibility. This topic would need to be discussed further, as the potential for import would most likely necessitate a contract between the District and WorldView.

19. Is there a standard numbering system for farms in PracticeKeeper? (Probably should have one before going statewide for ease of tracking.)

Answer: All plans and BMPs in PracticeKeeper are automatically assigned a unique ID.

20. Will PracticeKeeper have option for individual county tracking numbers? For plans and complaints.

Answer: PracticeKeeper tracks the county information as a separate field. It is not part of the unique identifier.

21. Please add Importer/Broker agreements to NMP Module.

Answer: The current PracticeKeeper does not have this component. The current contract with WorldView will not add new components/modules. However, upon completion of the requested project, DEP anticipates additional modifications/modules and edits may include this suggestion.

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22. How do you do soil loss? You need that first before you can start planning BMPs.

Answer: Soil loss calculations are done using RUSLE2 software first, separate from PracticeKeeper. This is similar to how RUSLE2 is used as a separate application than ToolKit.

23. Is NRCS allowing conservation plans to be written in PracticeKeeper?

Answer: This question is best answered by NRCS.

24. Can you develop your own narratives that are only available to you, or does everyone in PracticeKeeper world get? If so, does this make to drop down lists huge?

Answer: Custom narratives will be available to your District only and not visible by others.

25. What types of permissions are set for people looking at other counties, etc.? Who can see what and do what?

Answer: Users will only have access to the Districts that they have permissions. Ex: There may be engineering technicians that are shared or cross boundaries that may have permission to more than one county.

26. Need discussion on permissions as to who can see/edit/etc. what and is it county level or state level.

Answer: There has been ongoing discussion on this topic. There will be the ability to provide access for viewing vs editing, etc.

27. Developing and rollout of PracticeKeeper and how it is used needs to include CD's other than Lancaster! This system doesn't fit all the same way!

Answer: Thank you for this comment. Practice Keeper is currently used by five Pa conservation districts, including Lancaster. The rollout of this tool will include districts that currently do not use the existing PracticeKeeper.

28. Do you anticipate PracticeKeeper to have a RUSLE/soil loss determination component for ag E&S plans, similar to PAOneStop, in the future?

Answer: That could be an addition made in the future. However, the soil loss determination at this point is via RUSLE2 software in conjunction with using PracticeKeeper.

29. What is the funding source(s) to pay for PK? Will the EPA be using PK? Will NRCS also be using PK? Will DEP also be using PK?

Answer: DEP is using state funds to contract with WorldView to develop the web-based PracticeKeeper. DEP will use PracticeKeeper to collect Chesapeake Bay BMP data, as well as, to help support other programs. DEP is not aware of federal agencies' plans to use Practice Keeper.

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30. Is NRCS supportive of the use of PracticeKeeper? How will the use of PracticeKeeper work with NRCS's Customer Service ToolKit? Won't the use of PK obligate that every landowner/operator submit and complete a section 1619 waiver? All of the data compiled and collected in PK – whose information is it? How is the use of PK impacted by PA's RTK Law?

Answer: The first question is best answered by NRCS. PracticeKeeper will not be linked to NRCS's Customer Service ToolKit, at the request of NRCS. If PK is used to develop NRCS Conservation Plans, the landowner/operation would need to complete a NRCS Voluntary Authorization for Release Form. If PK is used to develop Ag E&S Plans, this form is not necessary, however it may be beneficial to use the DEP Release of Agricultural Plans form that has been recently provided.

31. How often will the parcel data be updated, or will users be able to edit data that is incorrect?

Answer: This is to be determined at this point.

32. When will this come into effect statewide? For all modules?

Answer: DEP is currently in a contract with the developer of Practice Keeper – WorldView Inc. – to take the existing Practice Keeper tool and make it available to all conservation districts via a web-based software application. Practice Keeper currently has six modules: Conservation Planning; Nutrient Management Planning; Erosion and Sedimentation Plans; Watershed Projects; Complaints; and BMPs. Each of these currently exists and are being used by several conservation districts. As part of this effort, DEP plans to make Practice Keeper available to all conservation districts in 2017. System testing will begin in January and we expect the system to be up and running for all districts no later than July 2017.

33. Is practice keeper being implemented for Ag E&S only or for all 102 permitting?

Answer: DEP is currently in a contract with the developer of Practice Keeper – WorldView Inc. – to take the existing Practice Keeper tool and make it available to all conservation districts via a web-based software application. Practice Keeper currently has six modules: Conservation Planning; Nutrient Management Planning; Erosion and Sedimentation Plans; Watershed Projects; Complaints; and BMPs. Each of these currently exists and are being used by several conservation districts.

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34. Could the ag inspection information form be provided to non-Bay CD's for reference?

Answer: Yes. The form is on the DEP website at:

http://files.dep.state.pa.us/Water/ChesapeakeBayOffice/Final_Initial_Ins_pection_Report.pdf

The Ag Compliance website may be of interest, as it has the Standard Operating Procedures, a referral form and other information. The Ag Compliance website is found at:

<http://www.dep.pa.gov/Business/Water/PointNonPointMgmt/AgriculturalOperations/Pages/Agricultural-Compliance.aspx>

35. When will special project money be available?

Answer: Expect to see the Special Project funding announcement after the beginning of 2017.

36. When will we see the new CBP Model? Webinar was held on the land use to be included. What else is included??

Answer: A timeline for the model and links to the land use data and tableau data viewer were emailed to the Bay Conservation Districts on November 4.

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37. What are examples of BMP's that manage thermal impacts during E&S stage of construction?

Answer: Examples include but are not limited to: Structural BMPs- vegetated systems (swales, filter strips, buffers); underground detention, infiltration systems, etc. Non-structural BMPs- preservation of shade trees, limiting the area of disturbance, etc.

38. What conditions require a permit application be sent to DEP? Ex: "if potential pollutants exist then it should be sent to DEP."

Answer: If it is determined that the site condition have the potential to discharge pollutants; coordinate with the Regional office to determine whether an Individual permit is appropriate.

39. Our district was instructed that the thermal impact analysis in the NOI is an overall 'snapshot' and that there should be separate TIAs relevant to E&S and PCSM in their respective narratives. Is this correct?

Answer: A thermal impact analysis is applicable to both E&S and PCSM in accordance with 102.4(b)(5) & 102.8(f)

40. If no infiltration is proposed, but the designer shows an underground detention facility and takes a volume control credit, is this possible without infiltration, and should this be commented on as part of the completeness review? (There is an increase in volume shown on worksheet.)

Answer: If there is an increase in volume shown on the worksheets and the NOI contact your respective Regional Office and discuss the applicability of making this a technical deficiency item.

41. Is the DEP wave site acceptable to check TMDL and impairment, as well as existing and designated use, rather than EMAP?

Answer: Both are appropriate.

42. If existing use is EV or HQ, but designated use is NOT special protection, is an individual NPDES permit required?

Answer: An individual NPDES permit is required

43. How do we know if site is in an area with an Act 167 local stormwater management plan?

Answer: An Act 167 layer is viewable in eMapPA.

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44. EMAP and WAVE, both DEP programs, often provide conflicting information on impairments, etc. (for example, wild trout) for the **same stream section** – which prevails? Makes a big difference in permit type (for example, individual v. general).

Answer: Contact your respective Regional Office and they can coordinate with the appropriate program staff to resolve the conflict

45. For Mike L. – If applicant is checking the box marked ‘consistent with Act 167’ not the boxes for ‘102.8’ or ‘alternative design’, then I would think that the consistency letter would be required, since CDs or DEP may not know what Act 167 requires. Thank you.

Answer: Though municipal consistency letters are preferred that are not a regulatory requirement and lack of one does not stop the review process.

46. In regards to the NOI, Item C, 5b & 5c – My understanding is that eMAP shows both attaining and non-attaining streams (Cat. 4 of PA WQM & Assessment Rpt.) and TMDL streams (Cat. 5 of PA WQM & Assessment Rpt.). Is this accurate?

Answer: eMapPA has attaining, non-attaining, and TMDL layers

47. NOI checklist should be completely filled out, including page numbers for each item. We have been told that explanations are required for each statement of N/A (separate page/footnote). Is this still required and are all CDs doing this?

Answer: If an applicant has indicated N/A on the checklist an explanation should also be provided.

48. Are we looking for a complete PCSM construction sequence (similar to E&S sequences) along with separate sequences for each PCSM BMP. I have found districts are doing this differently and looking for both or just one. Checklist seems to ask for both.

Answer: The checklist requests both a PCSM construction sequence (similar to E&S) and a sequence for individual BMP installation.

49. Presentation indicated that linear projects should look at multiple points of interest on a “watershed basis.” Info we received in the past indicated that every discharge on linear projects is a point of interest, regardless of watershed. That is, there can be many points of interest in the same watershed. Which is correct? I am assuming linear projects to be pipelines or highways.

Answer: In accordance with 102.8(f)(4) identification of the net change in stormwater volume and rate is required for each drainage area.

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50. Is an Individual NPDES permit needed if there are EV wetlands in the permit area, but they are not being disturbed and no direct discharge?

Answer: PAG-02 can be used for projects that are within the vicinity of EV wetlands as long as there is no discharge, earth disturbance or manipulation of the hydrology (adverse or favorable) to the EV Wetland. This not only means that stormwater from construction activity may not be discharged to the wetlands, via concentrated, shallow concentrated or sheet flow, but the drainage area of the wetlands may not be modified during and following construction activities. EV wetlands must be unaffected by site activities in order to remain eligible for PAG-02. If EV wetlands (or its drainage area) will be affected in any way, an individual permit will be required so that a detailed evaluation of any impacts can be conducted.

51. When does an NPDES permit application become public under right-to-know?

Answer: An NPDES permit application would become public under RTK at the time when it is received by the CCD or DEP.

52. How do you verify US residency if request can be anonymous?

Answer: You can't beyond looking at the email address. You can request that they verify US residency, but in the absent of information, it is probably best to assume US residency since it is such a low threshold.

53. We would like to request a right-to-know training – maybe at Management Summit or administrative/clerical training. Information is needed.

Answer: Thank you for your comment. We will discuss future trainings for District Managers and administrative staff.

54. If a district maintains a complaint log of all of the complaints in a year, is this subject to right-to-know?

Answer: It is a record subject to the Right-to-Know Law but it is more than likely protected as either a noncriminal or criminal investigative record and under Informant's privilege.

55. Should the as-builts that are being submitted and filed with the NOT have all PCSM notes, details, etc. as the original approved PCSM plans?

Answer: The as-built record drawings should contain the same information as the PCSM Plan contained and note any changes from the PCSM Plan (preferably overlain). If these are not on the record drawings, then you may request resubmittal (also mentioning that the recorded as-builts must be amended).

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56. 45 instrument filing – what constitutes proof of filing? Engineers are stating it takes at least 3 months to receive the recorded plans back from recorder of deeds (city is micro-copying plans) we are not receiving notices of filing within timeframe if these are also needed.

Answer: See the NOT SOP page 11, bullet 6 of Attachment 1 as well as permit condition 14.f. The recorded plans do not need to be provided as proof of filing.

57. What do you do if applicants do not submit the NOT?

Answer: If construction is complete and the site is stabilized, the violation should be documented on an inspection report and submitted to the permittee. If there is a backlog of unexpired permits, create a prioritized list and determine a suitable schedule to address each of the violations.

58. Ex. NOT is submitted. Inspection is conducted. Site stabilization hasn't occurred (ex. 50% veg. cover – easy fix). Now what? Do you really want us to deny it and have them resubmit? New drawings? New forms? New signatures? This will get expensive for them if an easy fix, can't we just hold onto the NOT, have them fix issues, then approve?

Answer: The permittee is responsible to submit the NOT form once the installation of the PCSM BMPs is complete and the site has been permanently stabilized. If this submittal is done prematurely, the NOT is to be denied indicating that it is the permittee's responsibility to resubmit the NOT form, which includes the necessary attachments. The only new item on the NOT would be the Section 7 Certification signature(s), date, and notarization. The record drawings should not have changed, but will need to be resubmitted. If the permittee would like to have the record drawings from the first submittal returned, they could pick them up at your office; it is not your responsibility to retain them for the next submittal.

59. Does Section 102.7(c) apply even for older permits issued prior to “new” regulations? So if an NOT was not submitted for a project on a 2008 permit does 102.7(c) still apply?

Answer: Yes, 102.7(c) applies for permits issued prior to November 21, 2016. The only non-applicable part of that section is “...including long term operation and maintenance of all PCSM BMPs on the project site...”

60. Maybe this is in the SOP but we are still not clear what needs to be submitted to CD upon initial filing and if NOT. Perhaps a simple example!

Answer: See the NOT SOP page 11, bullet 6 of Attachment 1.

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61. It was stated that the PCSM Plan can no longer be recorded at time of NOT regardless of BMP change it has to be as-builts. The check boxes in filing notice contradict that. Which is correct?

Answer: The checklist on the Instrument Filing Notice is for use both during the initial filing (when a PCSM Plan may be filed in lieu of as-built record drawings) and prior to permit termination (when as-built record drawings are to be recorded). The as-built record drawings must be recorded with the legal instrument prior to submission of the NOT form unless certain criteria (see NOT SOP, page 2, third bullet) are met.

62. How do we handle an NOT if the construction of the PCSM BMP has not been completed at time of filing? How/why would they be recorded as-builts for filing notice if it hasn't been built? Or is it only for initial filing?

Answer: The Instrument Filing Notice form is for use during both the initial filing (when a PCSM Plan may be filed in lieu of as-built record drawings) and prior to permit termination (when as-built record drawings are to be recorded). The Instrument Filing Notice will not clarify to the reviewer whether the plans recorded were PCSM or as-builts, but a red flag would be an older date on the receipt. And, the Instrument Filing Notice does state, "Be advised, after record drawings/as-builts become available, but prior to permit termination the record drawings/as-builts are to be included as an attachment to an amended legal instrument." If you suspect that the as-built plans were not filed, you should follow up with the permittee.

63. What information should be shown on an as-built plan? Is there a checklist?

Answer: There is no checklist, at this time, listing the required elements of an as-built plan. The as-built record drawings need to contain a level of detail sufficient for the person responsible for the long-term O&M of the BMP(s) to locate, access, and properly maintain the BMP(s). However, the NOT checklist confirms that the record drawings are included without expectation of reviewing the details. The record drawings should contain the same information as the PCSM Plan contained and note any changes from the PCSM Plan (preferably overlain). If these are not on the record drawings, then you may request resubmittal (also mentioning that the recorded as-builts must be amended).

64. Can we get an example of a complete NOT so we know the correct paperwork and forms to look for?

Answer: Yes, we will provide that soon.

65. Do all NOT's get sent to central office or just those w/ structural PCSM BMPs? WE do a lot of pipeline (ESCGP) NOT's which is typically don't have BMPs.

Answer: Yes, the SOP is for NPDES permits, E&S permits, and ESCGP permits; therefore, copies of all NOTs for these permits are to be sent (mail or email) to central office.

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66. Can CDs release NOT SOP to the public?

Answer: No. SOPs are internal documents. Instructions for the NOT form are planned to be developed, and an external version of Attachment 1 may be developed

67. How do we handle NOT/PCSM PE certifications when PE alters the language stating “did not observe” installation is it incomplete or a denial -> then what?

Answer: This is a violation of permit condition 5d and Chapter 102.8(k&l). This discovery should be documented on an inspection report, voluntary compliance pursued, and follow up enforcement actions taken as necessary.

68. Does a developer who sells 100 building lots hat to provide 100 notices to a District?

Answer: Yes

69. Is this new? Send a PDF file of inspect rpt, NOT form w/ sign NOT completeness rev. and field work checklist and NOT determ. Form letter to the Bur. Of Waterways Engineering Central Office.

Answer: This was part of the draft NOT SOP shared at last year’s annual training.

70. I have an NOT application, one issue is that it appears the infiltration basin is not working (debris and cattails) what are my options?

Answer: On the site inspection report, document the failure to maintain effective BMPs and submit the report and denial letter to the permittee.

71. In one case study Eric Konzelmann said permit expired and infiltration basin was not working. Was the work done voluntarily, or did you have to use enforcement? If enforcement, what was the violation cited?

Answer: So far we’ve worked only under voluntary compliance but we do expect to send some projects with expired PAG02 permits to DEP for enforcement if we cannot obtain voluntary compliance. DEP has released a draft of a “Corrective Actions Plan” and we use that as part of the voluntary compliance. As for violations cited, n.failure to implement effective PCSM BMPs, o.Failure to maintain effective PCSM BMPs, p.Failure to perform reporting and recordkeeping as required (no NOT), u.Failure to comply with permit conditions (expired permit & failing BMP), w.Site conditions present a potential for pollution to waters of the Commonwealth (due to discharges that are not adequately treated by a functioning PCSM BMP), y.Failure to comply with PCSM long-term operation and maintenance requirements.

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72. Have you (Eric Konzelmann) ever used dye testing to verify a failure/seep of a subsurface infiltration system? Is this a viable practice as in on-lot sewage dye testing?

Answer: No, but it could be used as a method to determine potential failure and/or leakage. Ultimately this is not something a District would do, perhaps a consultant could do it as it is the responsibility of the permittee to prove it is working. We look for observation ports, Inlets or manholes where we can determine if the underground systems are holding runoff and not infiltrating (drying up after runoff events). The outlet structure is where you want to look for signs of water being continually at the overflow elevation, or in some cases very slow drawdown. This should all be clearly spelled out in the operations & maintenance notes but I've seen very little in terms of adequate O&M plan notes for infiltration BMPs in PCSM plans, especially for Counties with no PCSM review. O&M notes should state how to inspect, what determines the need for maintenance and how to maintain/repair the BMP. Underground infiltration BMPs usually clog at the bottom of the BMP so replacing the system after removing the clogged soils/geotextile at the bottom is generally how to fix the infiltration function. It's important to reiterate that the inspection of the infiltration BMP should be done during a runoff event to look for leakage out through the overflow structure and/or about 3 days after a large runoff event to ensure the BMP has drained within the allowable 72 hours.

73. Can you please provide the reorganization sheet with names to conservation districts.

Answer: The organization list for both Bureaus will be sent out as soon as the new Org Chart is completed.

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74. For example, a 200 ft permanent road (20 ft wide) within floodway – no crossing, but no PCSM BMP. They said no change of cross sections but flood elevation of downstream not clear. 1. What permit or process review. 2. How to keep the decision record? 3. How to report the floodway impact?

Answer: A 200'x20' permanent road would indeed cause a change in the cross section. Depending on the rest of the details of the proposed project, a GP-7 may be the proper authorization if the terms and conditions are met. Follow the GP registration or Joint Permit Application and PASPGP-5 standard operating procedures. The road is a permanent fill placed in a stream floodway that is 4,000 sq ft (200x20). Corps/404 stream impacts may be “n/a” if the impact is outside of their jurisdiction.

75. Are we receiving extra funding from ACOE/Federal to do the ACOE additional work including determining single and complete projects / tracking and all the additional ‘formal’ Chapter 105 waiver requests in order to issue Federal Authorization? (it’s eating a lot of time. Currently have 3 waiver req. pending, which formally went straight to ACOE)

Answer: No.

76. Would it be possible to allow DEP staff to run a PNDI for EP’s?

Answer: DEP staff are already able to run a PNDI search for Eps

77. Do fish habitat structures such as log vanes, rock vanes, rock weirs that qualify for GP-1 require SLLA if they are in water deemed navigable?

Answer: GP-1’s under normal circumstances, do not give real or personal property rights nor grant exclusive privilege; nor do they grant/confer right title easement or interest in, to or over lands belonging to the Commonwealth (105.31(a)). Since most projects are sponsored and approved by PFBC under their Cooperative Habitat Improvement Program they are considered PFBC projects and do not require a submerged Land License Agreement for their fish enhancement structures to occupy waters of this Commonwealth. A private individual applying for a GP-1 would be required to obtain a SLLA .

78. For linear projects with multiple inputs, PASPGP-5’s are issued for each single and complete project. Must the applicant provide a GP registration for each impact area?

Answer: It can be done either way. If you know that multiple permits will be transferred to multiple entities then issue numbers for each GP crossing.

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79. Chapter 105 – Permit Transfer fees for GP Transfer of \$100 go to conservation district clean water fund. Does the \$200 for the SLLA Transfer also go to the county clean water fund?

Answer: Yes, the complete fee goes to the County Conservation District Clean Water Fund.

80. What is the water level – 100 year? OHWM? Q1. In case of GP Q2. In case of JPA for the decision of SLLA stream impact.

Answer: Please refer to Chapter 105 Regulations, see:

<http://www.pacode.com/secure/data/025/chapter105/subchapAtoc.html>

<http://www.pacode.com/secure/data/025/chapter105/s105.1.html>,

pages 105-7, 105-9

105-7 Floodplain—The lands adjoining a river or stream that have been or may be expected to be inundated by flood waters in a 100-year frequency flood.

Floodway—The channel of the watercourse and portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

105-9 Normal pool elevation—

(i) For bodies of water which have no structural measures to regulate height of water, the height of water at ordinary stages of low water unaffected by drought.

(ii) For structurally regulated bodies of water, the elevation of the spillway, outlet control or dam crest which maintains the body of water at a specified height.

(iii) This term does not apply to wetlands.

100-year frequency flood—The flood magnitude expected to be equaled or exceeded on the average of once in 100 years; it may also be expressed as the flood having a 1.0% chance of being equaled or exceeded in a given year.

Ordinary low water mark—The water surface elevation at ordinary stages of low water, unaffected by drought and unchanged by artificial means.

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Q & A

81. Please explain the process or steps Central Office follows to notify the regions and districts that new forms are available. For example, is a burst email sent to program managers and district managers? If there isn't an established process, the example above would be helpful.

Answer: New forms notifications should be sent via the following email distribution lists:

EP-BWE – Bureau of WE

EP-105 Delegated County Conservation Districts

EP-105 Group Managers

EP-105 Permitting Staff

EP-105 Program Managers

82. Is a permit required for the following or can it be considered maintenance? Boring (within a stream channel associated with bridge replacement / utility crossing, etc.

Answer: The guidance established for core borings on December 6, 1994 (file: 12061994 Subsurface Exploration in Wetlands.pdf), and associated Chapter 105 program guidance (file 8-8 Core borings.pdf). Core boring operations do not require a Ch. 105 permit, however temporary roads, fill for platforms or any other structure do. Erosion & Sediment Control or NPDES requirements may also apply.

83. Where no SPGP is issued, does anything get sent to ACOE at time of GP acknowledgement? Chapter 106 nonjurisdictional yes send to ACOE non reporting

Answer: Yes it is considered a NON-REPORTING action and is sent the ACOE. Also impacts in the floodplain are in a Chapter 106 nonjurisdictional area so yes send to ACOE non reporting.

84. Sid talked about a GP-17 several years ago. Flooding in NCRO area, brings that back to mind. Has there been any movement on this GP?

Answer: GP-17 has been tabled at this time but may be re-visited at a future date. Flooding impacts can continue to be corrected by utilizing the Emergency Permit process.

85. How does DEP Regional Offices know if a bank is proposed or established in their area?

Answer: DEP Central Office works closely with the ACOE and the federal Interagency Review Team for mitigation banking approvals. If Mitigation bank is proposed to be used the permit applicant will need to provide a credit release letter from the banker stating credit are available in the approved area.