



# LUZERNE CONSERVATION DISTRICT

## E&S/NPDES Requirements Municipalities should know.

Heather Graham, Program Coordinator

*Conserving Natural Resources for Our Future*

# Erosion & Sediment Control Requirements

**Earth disturbance activity**—A construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials. §102.1

## **Title 25, Chapter 102 of the PA Code:**

- Requires erosion controls for all earth disturbance activities, including those that disturb less than 5000 sq. ft.



# Erosion & Sediment Control Requirements

- For **earth disturbance over 5,000 sq. ft. or in Special Protection Watersheds** (Ch. 93), a written Erosion and Sediment Pollution Control (E&SPC) Plan is required.
- For **earth disturbance under 1 acre in size**, the Conservation District does not need to review and approve the E&SPC Plan, unless municipal ordinances require it (ex. Level 4 Stormwater Permit) or if certain DEP permits are required for the project (i.e. water obstruction & encroachment permits, etc.)
- District can require an E&SPC Plan if there is a complaint or if a site inspection identifies an erosion and sedimentation threat or problem on the site.



# Timber Harvest Activities

- A **Permit** is only required if the Total Disturbance for **skid/haul roads & landing is 25 acres or greater.**
- General Rule: If earth disturbance is 10% of the Total timber sale,  
A permit is most likely needed.



# Timber Harvest Activities

- Otherwise, an **E&S Plan for Timber Harvest Activities** is required.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF CLEAN WATER

## Erosion and Sediment Control (E&S) Plan Template for a Timber Harvesting Operation

This E&S Plan template only applies to timber harvest activities, as defined by 25 Pa. Code §102.1, which are not part of a larger development or conversion project.

### 1. GENERAL INFORMATION

|                                   |                                       |                                    |
|-----------------------------------|---------------------------------------|------------------------------------|
| A. Location _____                 | _____                                 | <b>Date</b>                        |
| B. Timber sale area = _____ acres | Municipality _____                    | County _____                       |
| C. Landowner/Agent _____          | Name _____                            | Home Phone _____ Work Phone _____  |
| _____                             | Street Address _____                  |                                    |
| _____                             | City _____ State _____ Zip Code _____ | Signature of Landowner/Agent _____ |

D. Person(s) responsible for construction and maintenance of erosion and sediment control BMPs during and after earth disturbance activities.  
(NOTE: If duties are assigned to more than one party, list all others under Section 12 of this plan.)

|       |                                       |  |
|-------|---------------------------------------|--|
| _____ | Name _____                            | Home Phone _____ Work Phone _____        |
| _____ | Street Address _____                  |  |
| _____ | City _____ State _____ Zip Code _____ | Signature of person(s) responsible _____ |

E. Erosion and Sediment Control Plan prepared by:

|       |                                       |                                  |
|-------|---------------------------------------|----------------------------------|
| _____ | Name _____                            | Phone _____                      |
| _____ | Street Address _____                  |                                  |
| _____ | City _____ State _____ Zip Code _____ | Signature of Plan Preparer _____ |

### 2. TOPOGRAPHICAL MAP

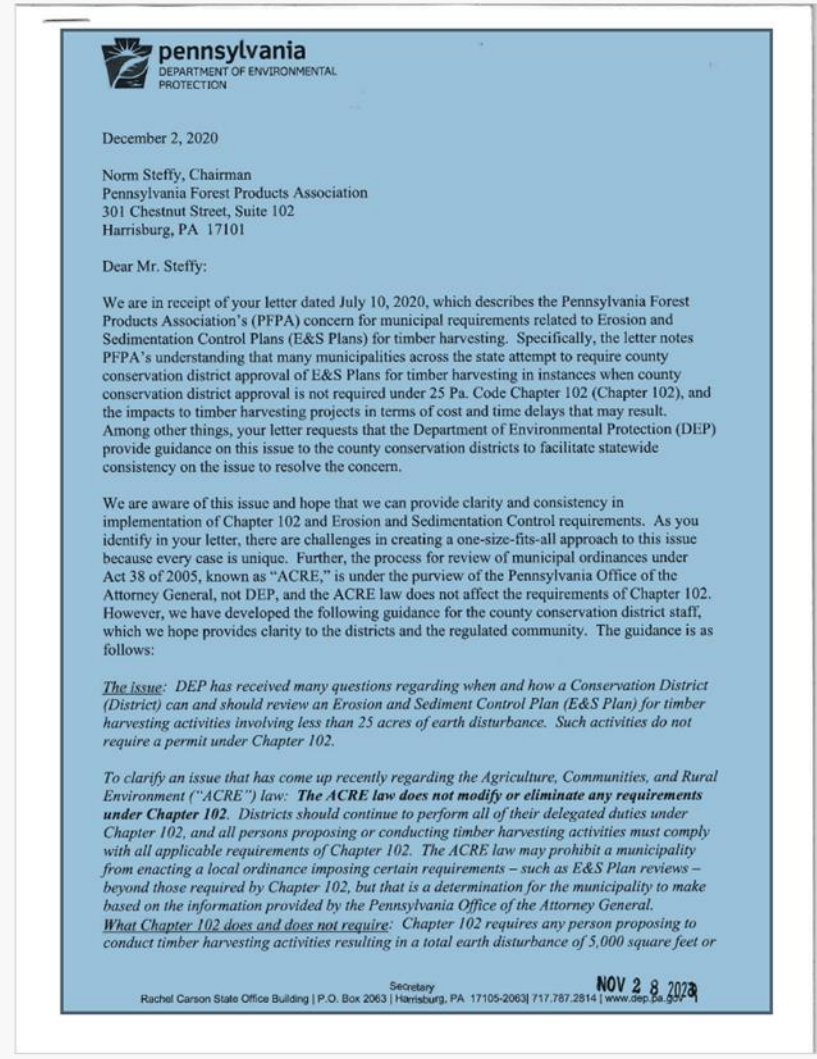
The map must include the location of the project with respect to roadways, streams, wetlands, lakes, ponds, floodplains, type and extent of vegetation and other identifiable landmarks. A United States Geologic Service (USGS) quadrangle map may be used to show the existing topographical features of the project site and the immediate surrounding area. The map scale must be large enough to clearly depict the topographical features of the project. Enlargements of the USGS quadrangle map are sufficient. The scale and north arrow must be plainly marked. A complete legend of all symbols used on the map must also be included.



# Timber Harvest Activities

- The Conservation District is **NOT** required to review & approved the E&S Plan. (DEP letter to PA Forest Products Assoc.-2020)

## WHY?



# Timber Harvest Activities

## The **ACRE** law

- ACRE-
- Agricultural
- Communities and
- Rural
- Environment



# Timber Harvest Activities

What's the Issue?



DEP has received many questions regarding when and how a Conservation District can and should review an E&S Plan for timber harvesting activities involving less than 25 acres of earth disturbance.





# Timber Harvest Activities

*Please note:*

*The ACRE law does not modify or eliminate any requirements under Ch. 102, and all persons proposing or conducting timber harvest activities must comply with all applicable requirements of Ch. 102.*



# Timber Harvest Activities

The ACRE law may

**prohibit a municipality from enacting a local ordinance imposing certain requirements--such as E&S Plan reviews-beyond those required by Ch. 102.**

But that is a determination for the municipality to make based on the information provide by the Pennsylvania Office of Attorney General.



# Timber Harvest Activities

- What municipalities can or cannot do:

In an effort to force E&S Plan review prior to earth disturbance, some municipalities have adopted ordinances requiring a landowner/operator submit an E&S Plan to the District for review & approval prior to the municipality issuing its own permit, regardless of the size of the earth disturbance.



# Timber Harvest Activities

- The Pennsylvania Attorney General has issued letters to some municipalities stating that an ordinance requiring the landowner/operator to submit an E&S Plan to a District for review when otherwise required by Chapter 102 **violates** ACRE law.



# Timber Harvest Activities

- The Attorney General's letters have, however, indicated that **no ACRE violations** would occur if a municipality requested a copy of the E&S Plan and submitted the plan to a District at the **municipalities sole cost.**



# Timber Harvest Activities

- The following basic reminders may be helpful:
- *Districts are not prohibited from reviewing E&S Plans under the ACRE Law.*
- If a landowner/operator or municipality requests a District to review an E&S Plan, the District may do so for a fee.



# Timber Harvest Activities

- Even where an E&S Plan is not required to be reviewed, ***if an E&S Plan is required to be developed & implemented, it must be available on site during all stages of earth disturbance.***



# Timber Harvest Activities

- DEP or the District can request to review the E&S Plan at any time during an inspection or upon complaint. If a landowner/operator refuses to provide their E&S plan upon request in one of these situations, the refusal may constitute a violation of Chapter 102 and should be addressed through appropriate enforcement means.





# Timber Harvest Activities

- According to the Attorney General, ***municipalities may not require a landowner/operator to submit an E&S Plan to DEP/District if Chapter 102 does not require such a review.***



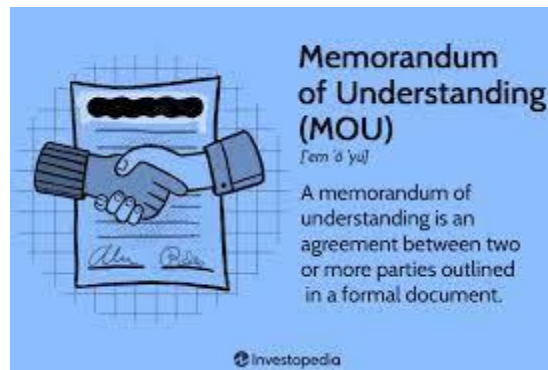
# Timber Harvest Activities

- ***District & municipalities may enter into MOUs that include the review of timber harvesting E&S plans, however, in accordance with the opinion of the Attorney General, any such MOU should not require that landowner/operators submit E&S Plans to District if not otherwise required to do so under Chapter 102. (cont.)***



# Timber Harvest Activities

- An MOU that allows the municipality to submit E&S Plans for review at the municipalities sole expense is acceptable.



# Erosion & Sediment Control Requirements

- Where contractors “dump” their material:
- Sorry.....including municipalities



# Road Maintenance Activities

- Where does the material go?
- How to stabilize roadsides?

## RMA-Road Maintenance Activities



### Chapter 102 Road Maintenance Activities

Frequently Asked Questions (FAQ)

Revised, February 2, 2023

Version 1.2



# Road Maintenance Activities

- FAQ#1

What activities are considered RMA?

RMA is defined at 25 Pa. Code Ch.102 as including the following earth disturbance activities within the existing road cross-section or railroad right-of-way:



# Road Maintenance Activities

- Shaping and stabilizing unpaved roads
- Shoulder grading
- Slope stabilization
- Cutting of existing cut slopes
- Inlet and endwall cleaning
- Reshaping and cleaning drainage ditches and swales
- Pipe cleaning/replacement



# Road Maintenance Activities

- FAQ#6 Is RMA exempt from Chapter 102 E&S requirements under 102.4(b)?
- No. Regardless of the area of RMA earth disturbance, the operator must implement and maintain E&S BMPs (per 102.4(b)(1).
- Also, a written E&S plan must be developed & implemented if the disturbance will exceed 5,000 sq. ft. (per 102.4(b)(2)(i).





# Fill in Wetlands

- “Well, I just have this low spot in my yard I want to fill in.”
- “The area is always wet and I’m afraid of West Nile Virus.”
- “I need material to expand my parking area.”
- “The material is free. I had to take it fast before they took it somewhere else.”



# Erosion & Sediment Control Requirements

- “I’ve lived here for years and don’t see any cati nine tails. There’s no wetlands here.”



- Wetlands are usually disturbed by dump/waste sites and single residential



# Erosion & Sediment Control Requirements

- *If it looks like a wetland, it might be one. If it doesn't look like a wetland, it might be one.*
- **3 Wetland Components:**
  - Hydric soil
  - Hydrology
  - Vegetative type



# Conclusion



# Conclusion

- **What to recommend to people coming in for:**
  - + **building permit**
  - + **timbering**
  - + **any land development**
  - + **work involving or near a stream/  
wetland**



# Conclusion

- Possibly create a Checklist to hand them listing the various E&S, NPDES, Ch. 105 requirements.



- Recommend they contact the District.



# QUIZ

- What does NPDES stand for?



# Quiz

- NATIONAL
- POLLUTION
- DISCHARGE
- ELIMINATION
- SYSTEM





# Quiz

- What are the 3 components of a wetland?



# Quiz

- Hydrology
- Soil Type-Hydric
- Hydrophytic Vegetation



# Quiz

- PennDOT can do what they want?



