

# Chapter 102 Compliance: Lessons Learned

Bureau of Clean Water  
3/10/2026



# Learning Objectives



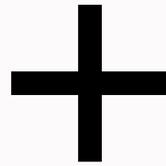
1. Background
2. Compliance Expectations
3. Common Violations
4. Non-Compliance



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# Laws/Regulations

EPA's NPDES  
Program



State Regulations



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# Laws/Regulations

Clean Streams Law: “to preserve and improve the purity of the Waters of the Commonwealth for the protection of the public health, animal and aquatic life, and for industrial consumption and recreation”



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# Laws/Regulations

Chapter 92a

Chapter 93

Chapter 91



# Chapter 102 Regulations



- “Requires persons proposing or conducting earth disturbance activities to develop, implement and maintain practices to **minimize the potential for accelerated erosion and sedimentation** and to **manage post construction stormwater.**”
- “The practices shall be undertaken to **protect, maintain, reclaim and restore water quality** of the existing and designated uses of waters of this Commonwealth.”

# What's wrong with a little mud?



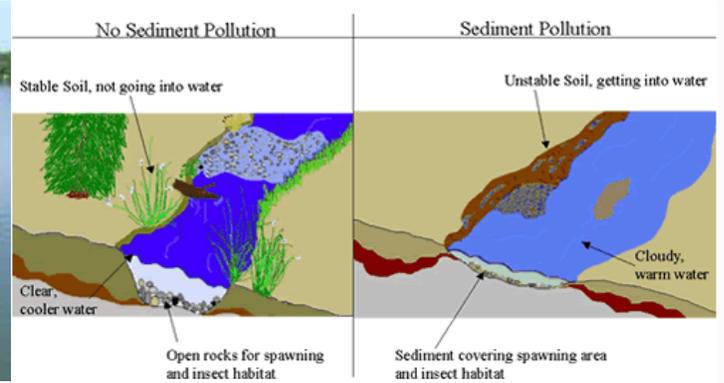
**Flooding**



**Carries  
Pollutants**



**Impacts  
Recreation**



**Impacts  
Habitat**

**Sediment is the number one pollutant by volume in PA streams.**



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# Compliance Expectations

## APPLICANT CERTIFICATION

I certify under penalty of law that this application and all related attachments were prepared by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my own knowledge and on inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. The responsible official's signature also verifies that BMPs, SCMs, E&S Plan, PPC Plan, PCSM Plan, and other controls will be implemented to ensure that water quality standards and effluent limits are attained and that I will submit a Notice of Termination (NOT) to DEP/CCD upon final stabilization of the project site if I am the permittee or co-permittee at that time. I grant permission to DEP/CCD and EPA to enter the project site for inspection purposes. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment or both for knowing violations pursuant to Section 309(c)(4) of the Clean Water Act and 18 Pa. C.S.A. § 4904.

Voluntary  
Compliance



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# Plan Implementation

**Develop a plan  
that is practical to  
implement**

**VISIT SITE**



# Plan Implementation

**Think like a  
contractor**

Can the contractor realistically implement the approved plan?

Does the Construction Sequence make sense, or is it setting the contractor up for problems?



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# Plan Implementation





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# Operating without a permit

< 1 acre of disturbance

Permit or No Permit?



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# Permit Modifications

**PRIOR APPROVAL  
REQUIRED**





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# Visual Site Inspections (VSIs)

Not  
Completed

Not accurately  
completed





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# Terminating Permit Coverage



1. Permanent Stabilization of Site
2. E&S BMP Removal
  - Permanent stabilization
3. PCSM SCM Installation
  - Permanent stabilization
4. PCSM SCM Operation & Maintenance
  - On-going permanent stabilization



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# Terminating Permit Coverage

**NOTs are not being submitted/deficiencies  
not addressed**



# Terminating Permit Coverage

70% uniform  
stabilization not  
satisfied

PCSM SCMs not  
installed or not  
functioning  
properly

Temp. E&S BMPs  
not removed

As-builts don't  
accurately reflect  
site conditions.

**Additional  
Impervious**

Lack of Recorded  
Instrument



# Terminating Permit Coverage

## Additional Impervious

Were stormwater  
Requirements satisfied?

Install additional SCMs

## Recommendations

Design for maximum  
impervious

Design for partial  
terminations



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# Helpful Tips: Notice of Termination (NOT)



**HELPFUL  
TIPS!**





# Recorded Instrument

## Common Problems

Not completed  
before  
properties are  
sold

Don't include  
all required  
information



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# Recorded Instrument



## 2019 Permit

Required recording of an instrument for PCSM BMPs within 45 days of issuance

Proof of the recording was required with the submission of a Notice of Termination (NOT) or transfer application

## 2024 Permit

Requires submission of the full recording and proof of recording initially, prior to scheduling the pre-construction meeting, unless excepted

Requires proof of the recording with the submission of an NOT or transfer application



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# Recorded Instrument

Modifications to PCSM Plan



Modification to Recorded  
Instrument



# Recorded Instrument



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF CLEAN WATER

## CHAPTER 102 PCSM RECORDING CHECKLIST

Initial Recording       Final Recording (NOT)       HOA/Planned Community Declaration

Permittee Name: \_\_\_\_\_ Permit No.: \_\_\_\_\_

Project Site Name: \_\_\_\_\_ Lot/Parcel ID(s): \_\_\_\_\_

INSTRUMENT RECORDING REQUIREMENTS		YES	NO	N/A	DEP/CCD
1.	Does the recording identify the type of PCSM SCM(s)?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
2.	Does the recording identify the location of the PCSM SCM(s) on the lot?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
3.	Does the recording include drawings identifying SCM dimensions, inlet and outlet structures, construction materials and media, and vegetation (planting plan), as applicable?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
4.	Does the recording identify how access to the SCM is accomplished?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
5.	Does the recording include a long-term operation and maintenance (O&M) plan for the SCM?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
6.	Does the recorded instrument identify the party responsible for long-term O&M?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
7.	Does the party responsible for long-term O&M identified in the recorded instrument match the information provided in Section 5 of the NOT? ( <i>final recordings only</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Does the instrument identify that the responsibility for long-term O&M of the PCSM SCM is a covenant that runs with the land and is binding and enforceable by subsequent grantees?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

## Other Resources

[Chapter 102 PCSM Recording Checklist](#) (DOCX)

[Chapter 102 PCSM Recording Checklist Instructions](#) (PDF)

[Sample Instrument for the Declaration of Restrictions and Covenants](#) (PDF)

[Qualified Site Inspector Alternatives Alternative Qualifications List](#) (PDF)

[E&S BMP Inspection Checklists](#) (DOCX)

[PCSM SCM Inspection Checklists](#) (DOCX)



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# Oversight/Communication



Doesn't Work!  
*(So ... Stop?)*

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# Limit of Disturbance



**No Limits of  
Disturbance marked  
in the field – can be  
anyone's decision  
then! A recipe for  
poor choices**



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# Limit of Disturbance





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# Construction Sequence

## Where things work well or run amok



The basin where the entire  
site is supposed to drain to



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# What went wrong?





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# What went wrong?



- Site was completely open
- Area abutting the road was the designed sediment basin.
- A pond across the road.
- 2 pollution incidents
- Field Order and Enforcements w/Penalty



# Stabilization: Common Problems

Not  
implemented  
when  
required

Not  
implemented  
Properly

Not  
monitored

Not  
maintained



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# Stabilization

## The Expanse of Missed Opportunity





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# Stabilization

## The Expanse of Missed Opportunity





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# Stabilization

## The Expanse of Missed Opportunity





# Perimeter/On lot controls

Not installed

Installed incorrectly

Installed across contour lines

Ends not turned up



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# PCSM BMP/SCM Installations





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# PCSM BMP/SCM Installations

## Design knowledge and Considerations





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# Rain Garden: What went wrong?

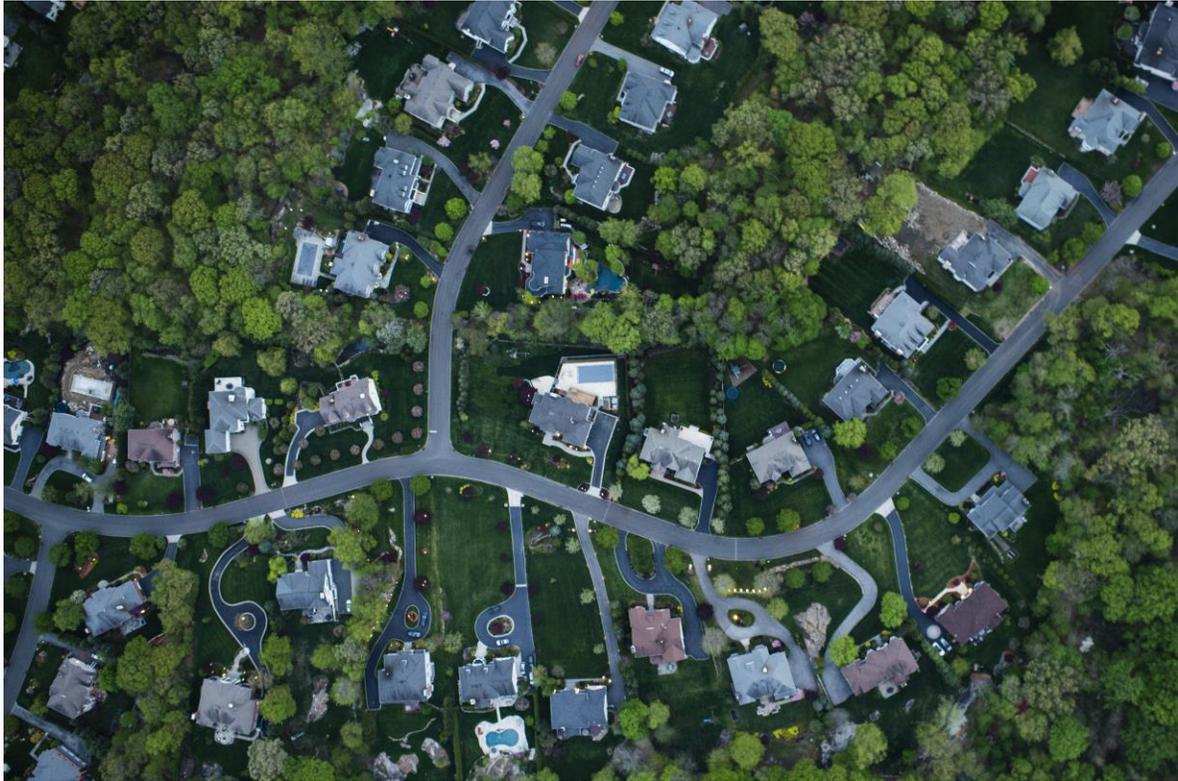




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# PCSM BMP/SCM Installations

## TREES





# Permanent Stabilization

Upon final completion of an earth disturbance activity or any stage or phase of an activity, the site shall be immediately have topsoil restored, replaced, amended, seeded, mulched, or otherwise permanently stabilized and protected from accelerated erosion.

70% Uniform perennial vegetative cover, with a density capable of resisting accelerated erosion and sedimentation.

A BMP which permanently minimizes accelerated erosion and sedimentation



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# A Final Message

**Establishing a culture of  
compliance and  
cooperation**





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# Get In Touch

**Krista Brown**  
**Stormwater Compliance Section**  
**Bureau of Clean Water**  
**2 East Main St.**  
**Norristown, PA 19401**

...

**484-250-5183 / [kristbrown@pa.gov](mailto:kristbrown@pa.gov)**

**Linda Mackey**  
**Environmental Protection**  
**Compliance Specialist**  
**Waterways & Wetlands Program**  
**2 East Main St.**  
**Norristown, PA 19401**

...

**484-250-5148 / [lmackey@pa.gov](mailto:lmackey@pa.gov)**

The Department of Environmental Protection's mission is to protect Pennsylvania's air, land and water resources and to provide for the health and safety of its residents and visitors, consistent with the rights and duties established under the Environmental Rights Amendment (Article 1, Section 27 of the Pennsylvania Constitution).