

Bureau of Oil and Gas Planning and Program Management

Individual Erosion & Sediment Control (E&S) Permit Application FAQ

NOTE: This FAQ is intended to be utilized for projects that will be reviewed, permitted and inspected by the Department of Environmental Protection (DEP) Oil and Gas District Offices. It is recommended that prospective applicants contact the DEP Oil and Gas District Office where the project is located prior to submitting an E&S Individual Permit application or Erosion and Sediment Control General Permit (ESCGP) Notice of Intent (NOI). Use the following link for contact information: [Contacts and Directions \(pa.gov\)](#).

1) Why are certain oil and gas projects not able to be permitted with a general permit (ESCGP)?

Oil and gas projects can be very complex due to many factors including, but not limited to, project size (i.e., earth disturbance area) and construction methodology as well as site characteristics such as prior land uses and/or contamination, soil erodibility, geologic hazards, or proximity to sensitive or high valued resources. When any of these factors are associated with a project, project-specific special conditions may need to be applied based on DEP's assessment of the project. Special conditions cannot be added to a general permit, such as an ESCGP. Therefore, when special conditions are necessary, Individual E&S Permit applications must be received and processed so that special conditions can be established in the permit.

2) Is there a size limit that restricts use of the ESCGP for oil and gas projects?

There is no upper limit to earth disturbance that would prohibit oil and gas projects from using an ESCGP. DEP considers a project as having acceptable risk tolerances when accepted construction practices (including following DEP technical guidance documents) are proposed, and the project will not have an adverse impact on sensitive areas.

3) Does use of trenchless technologies require an Individual E&S Permit for oil and gas projects?

An ESCGP may not be applicable in this situation, and an Individual E&S Permit may be required. Trenchless technologies, including Horizontal Directional Drilling (HDD) as well as other methods of installing horizontal pipelines below aquatic resources, roadways and other features present a number of risk factors, such as proximity to public and/or private wells, existence of Karst terrain and/or mine voids. When risk factors cannot be addressed in the context of a general permit, or when special conditions are required to alleviate those risk factors, an Individual E&S Permit may be required.

4) Can an ESCGP be used where potentially hazardous geologic or soil conditions are present at the location of an oil and gas project?

An ESCGP may not be applicable when potentially hazardous geologic or soil conditions are present. In these situations, an Individual E&S Permit may be required. Highly erodible soils, slopes with a high probability of failure or other geologic hazards may require a more in-depth analysis and review, and likely the use of best management practices that are not typically used for oil and gas projects. Coordination with the DEP Oil and Gas District Office where the project

is located will help determine the extent of what may be required. See [ESCGP-3](#), Section 3. SCOPE OF ACTIVITIES, subsection b for more detail.

5) Does the presence of threatened and endangered (T&E) species at the site of an oil and gas project prohibit coverage with an ESCGP?

An ESCGP may not be applicable in this situation, and an Individual E&S Permit may be required. Potential impacts to T&E species such as the Bog Turtle or Indiana Bat may require special project specific considerations. These decisions will occur in coordination with applicable resource agencies (including recommended protective measures and seasonal restrictions).

6) If preexisting contaminated water or soils are present at the location of an oil and gas project, can the project be covered with an ESCGP?

The level and type of contamination will determine whether a project can be covered with an ESCGP. This is dependent on the applicant's level of environmental due diligence. Projects located in areas with known soil or groundwater contamination including constituents that have been properly assessed and are above the residential statewide health standard in Chapter 93 and Chapter 250 would require an Individual E&S Permit.

If the potential exists for toxic or hazardous pollutants in stormwater to be discharged from the site during construction, the project is not eligible for coverage with an ESCGP. The criteria concerning soil contamination is if medium-specific concentrations (MSCs) in 25 Pa. Code Chapter 250 are exceeded, the project is not eligible unless a site-specific cleanup standard has been met under the Land Recycling Program (Act 2) or other program or evidence of naturally occurring soil contamination or widespread atmospheric deposition is provided.

7) Do oil and gas projects located in areas of known previous industrial land use with suspected contamination require an Individual E&S Permit?

An Individual E&S Permit may be required in this situation. Project areas with previous industrial land use and suspected contamination (unknown in quantity and extent) will be evaluated closely regardless of construction methodology and require coordination with the appropriate programs in the corresponding DEP regional office. (e.g., Environmental Cleanup and Brownfields, Waste Management, Clean Water, Radiation Protection, Air Quality). Also, Notices of Intent without documentation showing site chemical characterization will require an Individual E&S Permit.

8) Do projects that require a limestone drain require an Individual E&S Permit?

Yes. A project that requires a limestone drain to be utilized to treat, or having the purpose of treating, pollutants in the soils or groundwater is going to need to be monitored to be certain the discharge will not violate water quality standards. This cannot be done under the conditions of a general permit and would therefore require an Individual E&S Permit with special conditions.

9) What are the discharge requirements for projects that discharge polluted groundwater from the site? Is the permittee responsible for long-term for treatment of the discharge?

Discharge requirements are based on a case-by-case basis determined by the pollutant type, concentration, and condition of receiving waters. DEP must be certain that water quality standards are not violated. Yes, the permittee is responsible for long-term treatment of the discharge. If a treatment system is required, an NPDES permit would need to be obtained by the Clean Water Program. Coordination with the DEP Oil and Gas District Office where the project is located will help determine the extent of what may be required in these situations.

10) What if contaminants are discovered on-site that are not associated with acid producing rock (APR)?

Project areas with contaminants other than APR may require coordination with the appropriate programs in the corresponding DEP regional office. (e.g., Environmental Cleanup and Brownfields, Waste Management, Clean Water, Radiation Protection, Air Quality). Discussions should include issues with the contaminant(s) of concern, segregating material, landfilling, and/or potential treatment options. For further detail regarding soil contamination refer to the response to FAQ #6.

11) What are the Mining Permit requirements if coal is encountered (incidental take)?

District Mining Operations (DMO) must agree that the coal to be encountered is incidental to the primary activity and thus must be removed to carry out the primary activity. If the developer/operator chooses to properly dispose of the incidentally encountered coal without exchange of money, goods, or services as remuneration for the material, they will not have to get an Incidental Coal Extraction (ICE) permit, otherwise an ICE permit is required.

The following is then required by DMO in lieu of an ICE permit application:

- A signed document demonstrating the developer/operator owns the coal, or has permission to remove the coal
- Location where all coal will be disposed (a permitted landfill or CRDA) and the approximate volume/tonnage to be disposed
- Tipping receipts for disposal from that permitted facility showing the volume of the coal disposed

OTHER HELPFUL RESOURCES:

- [How to Avoid and Handle Acid-Producing Rock Formations Encountered During Well Site Development Fact Sheet](#)
- [APPLICATION - INCIDENTAL COAL EXTRACTION PERMIT 5600-PM-BMP0165](#)