

COUNTY-WIDE ACT 167 STORMWATER MANAGEMENT MODEL ORDINANCE UPDATE

**CHESTER COUNTY ENGINEERS SPRING CONFERENCE
MAY 19, 2022**



OUTLINE

- Stormwater Management Planning: How did we get here?
- Model Ordinance Update Process
- PA DEP Comments on County-wide Model Ordinance
- Summary of Final Provisions
- Municipal Rollout Process

STORMWATER MANAGEMENT: HOW DID WE GET HERE?



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

1972: Clean Water Act (CWA)

- Sought to improve water quality by managing point source discharges
- Original CWA did not address non-point source pollution or stormwater runoff



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

- **1987: Water Quality Act (amendment to CWA)**
 - Directed states to develop non-point pollution management programs (Section 319)
 - Directly addressed stormwater discharges



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

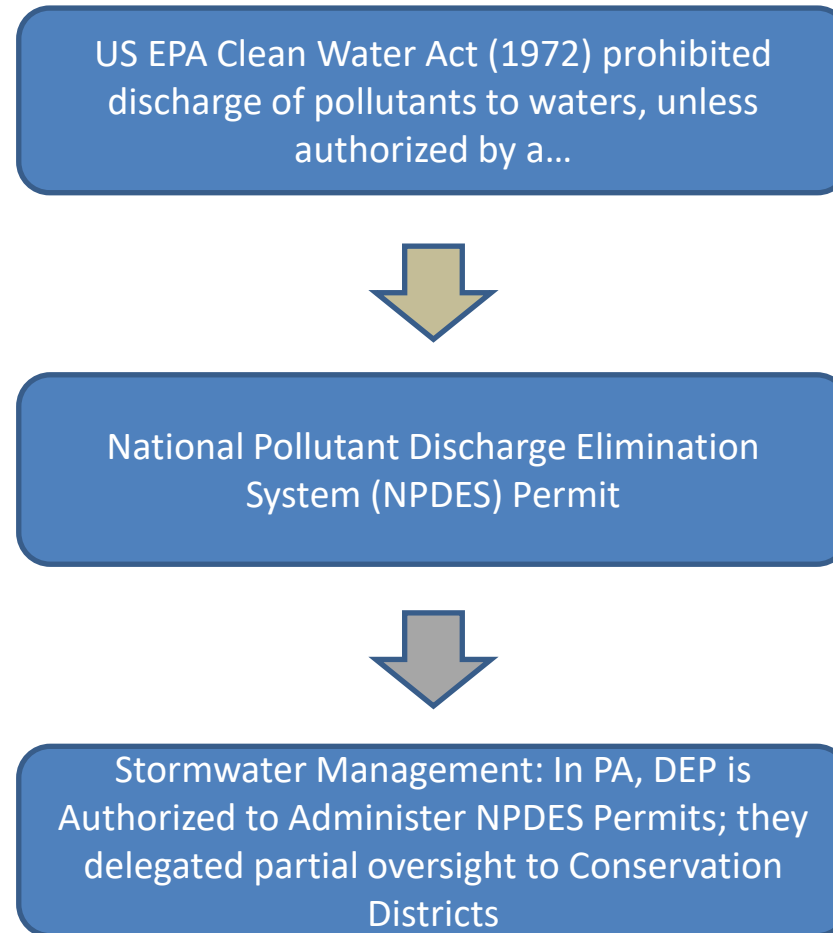
National Pollutant Discharge Elimination System (NPDES)

- **NPDES permits:** Required for any discharge to waters of the Commonwealth. **Issued by PA DEP's Bureau of Clean Water**
- **Regulates stormwater discharges for:**
 - Construction Activities (E&S)
 - Industrial activities
 - Municipal Separate Storm Sewer Systems since 2003 – Managed under the MS4 Program



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

A Framework for Managing Stormwater



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

PA Act 167 of 1978

- Purpose: Reduce flooding and stormwater impacts of future development and redevelopment
- Mandates counties to prepare stormwater management plans and standards
- Mandates municipalities to adopt the stormwater management standards



STORMWATER MANAGEMENT: HOW DID WE GET HERE?

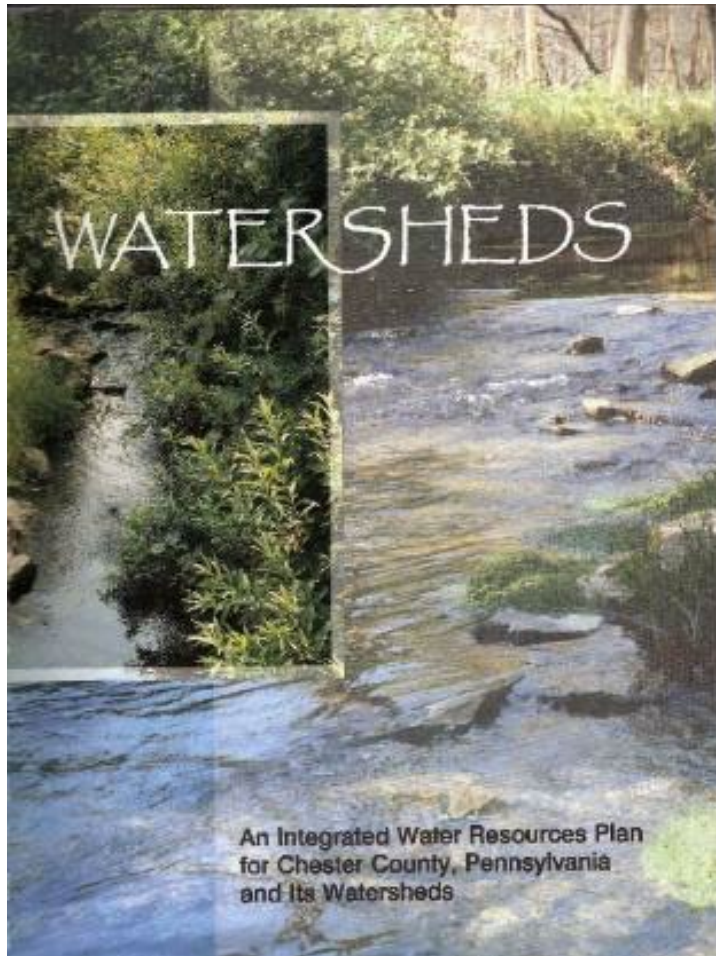
- DEP is directed under Act 167 to develop a **model stormwater ordinance**.
- The Model Stormwater Management Ordinance satisfies **DEP's Act 167** requirements, and, for **MS4s**, regulatory requirements as implemented through **NPDES permits**.
- MS4s should consider requirements unique to specific county-wide or watershed-wide **Act 167 Plans**.
- **Existing MS4s** must update existing ordinances to be consistent with the model ordinance by **September 30, 2022**.
- **New MS4s** must adopt an ordinance consistent with the model ordinance **by September 30, 2022** or with 4th Annual MS4 Status

STORMWATER MANAGEMENT: HOW DID WE GET HERE?

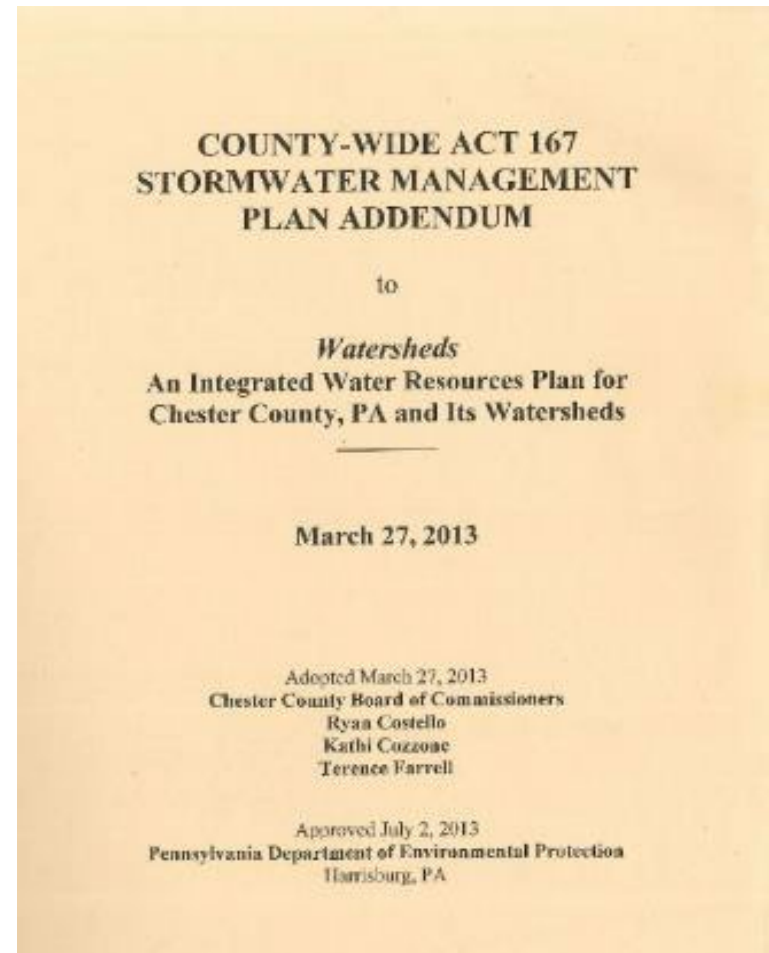
Pennsylvania Stormwater Management Act (Act 167)

- Act 167 Plans were completed for several individual watersheds:
 - Chester Creek (2003)
 - Darby-Cobb Creek (2005)
 - Valley Creek (2011)
 - Crum Creek (2012)
- 2010: Chester County completed the *County-wide Act 167 Plan Phase 1 Report*

STORMWATER MANAGEMENT: HOW DID WE GET HERE?



2002



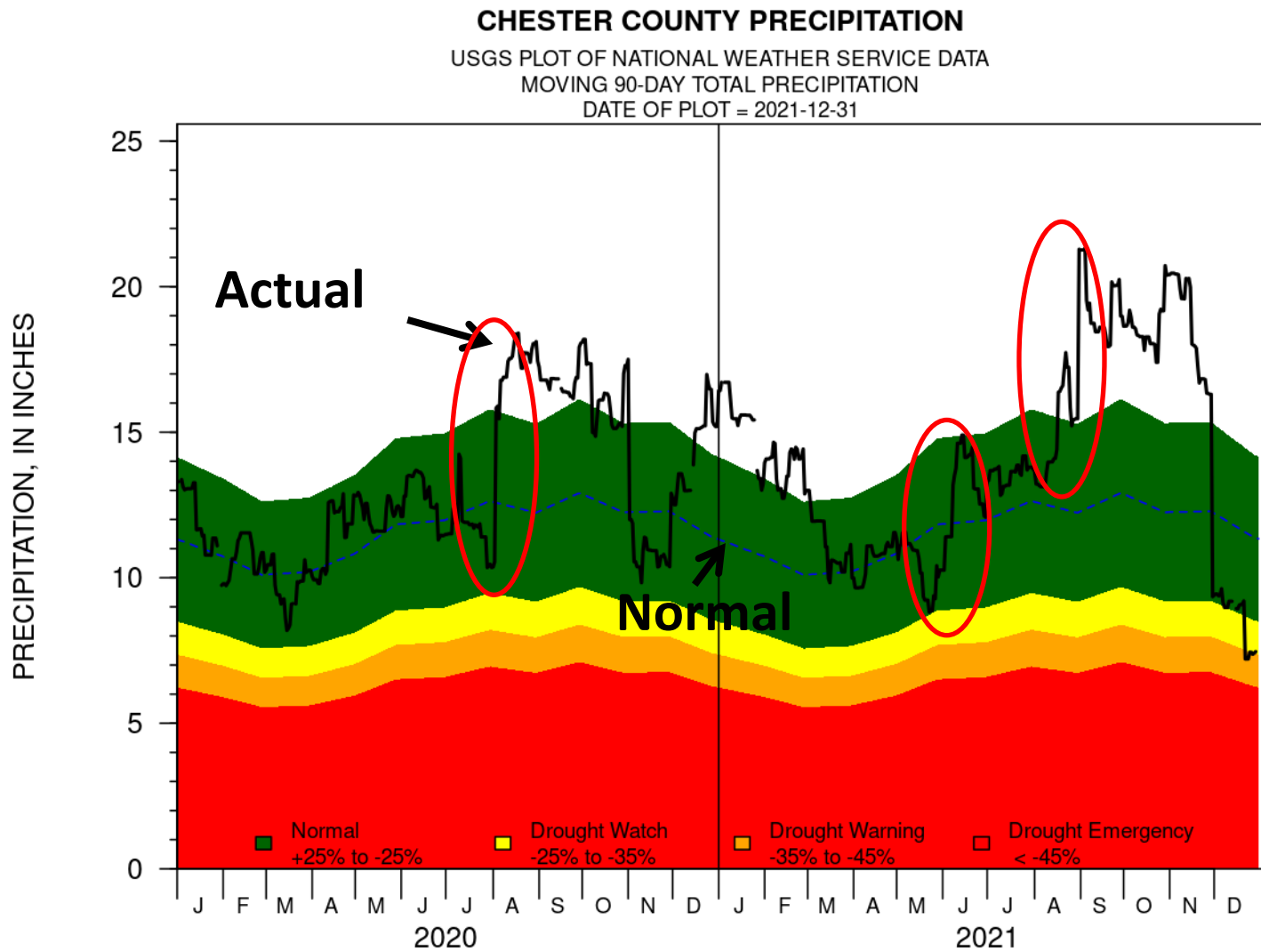
2013

THE NEED FOR AN UPDATE

- **Increased rainfall** event frequency and intensity
- Protection and improvement of **water quality**
- NPDES MS4 Permit **requirements**

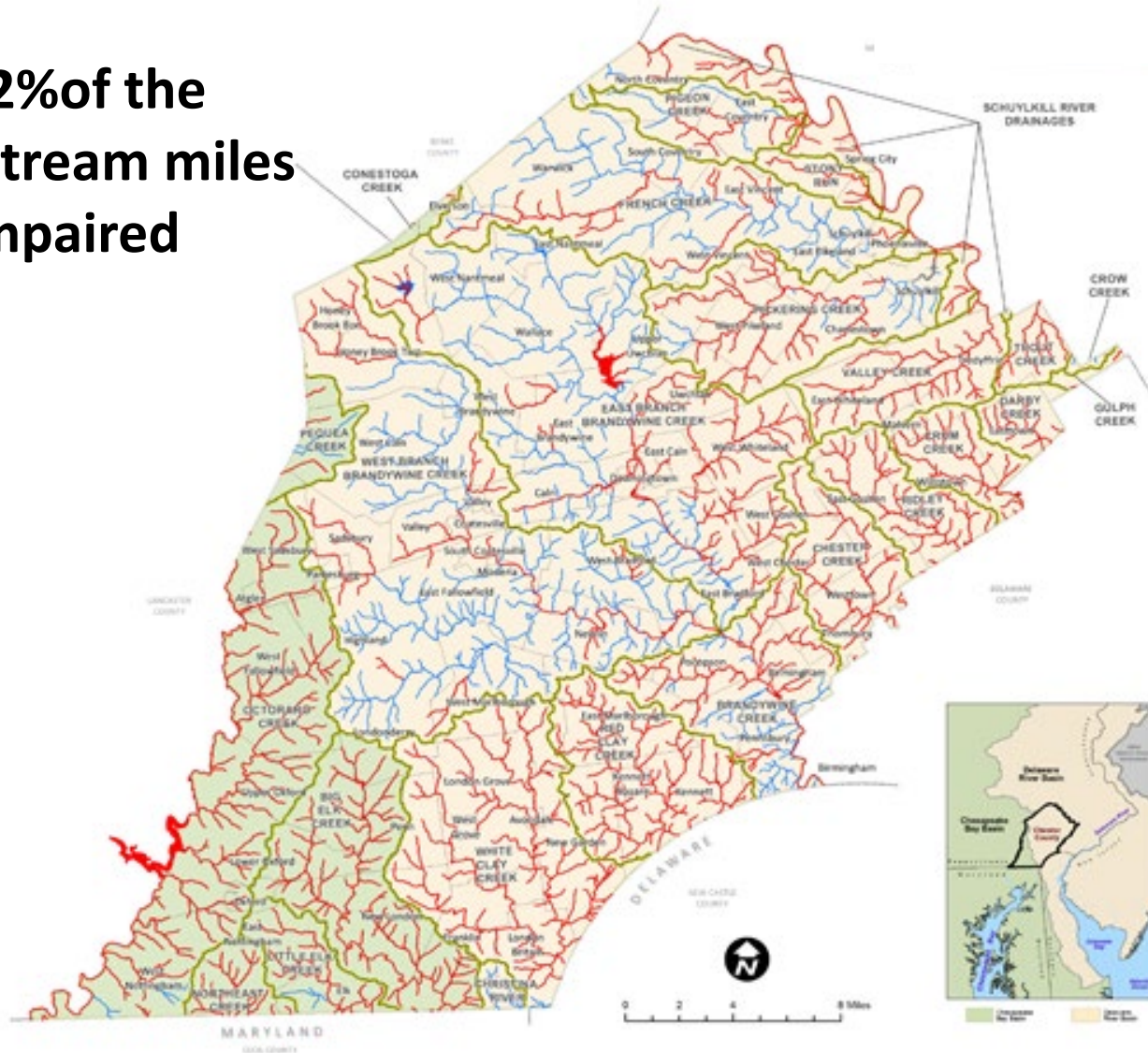


THE NEED FOR AN UPDATE



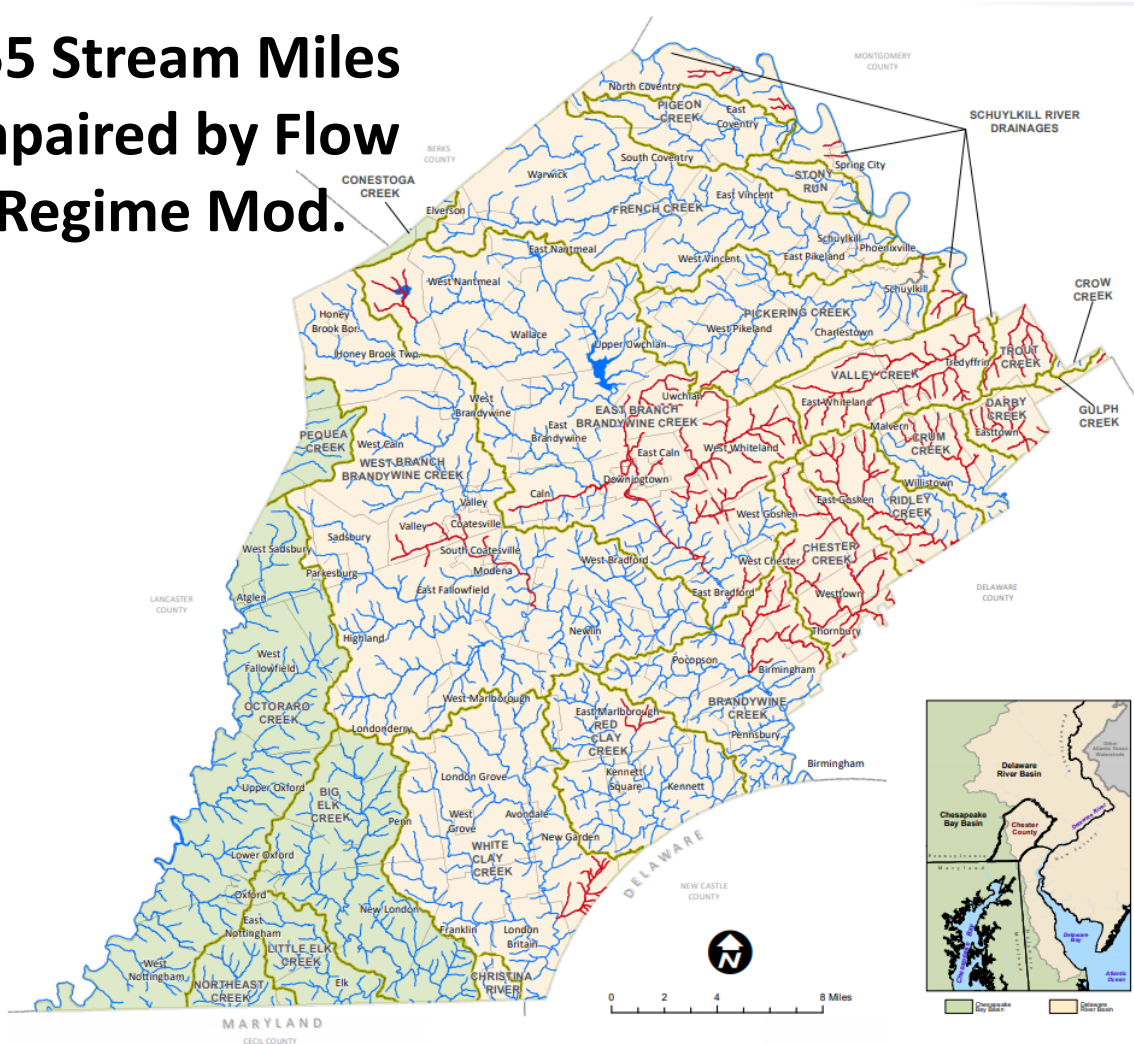
THE NEED FOR AN UPDATE

69% 72% of the
County's stream miles
are impaired



THE NEED FOR AN UPDATE

255 Stream Miles
Impaired by Flow
Regime Mod.



Chester County
2020 Impaired Waters Map Series

Map
IW-4-2020

Impairments as of 2020 PADEP
Integrated Water Quality Report

Flow Regime Modification

Previously defined as both Flow Alterations – Changes in hydrologic regime as a result of water regulation (including dams without, or with insufficient minimum releases), or dewatering as a result of bedrock fracturing from mining activities, or lack of base flow due to reduced rain water infiltration in urban areas or reduction in base flow caused by ground water withdrawals, and

Water/Flow Variability – Changes in hydrologic regime caused by water releases, increased surface runoff from impervious surfaces during storm events, scouring and drought. Results in unstable environment for macroinvertebrates and fishes. Habitat alterations include stream widening, substrate paving, shallower pools, etc.

- Waters listed as impaired for "Flow Regime Modification" in the 2020 PADEP Integrated Water Quality Report
- Waters assessed for at least one parameter and not listed as impaired for "Flow Regime Modification" in the 2020 PADEP Integrated Water Quality Report
- Municipal Boundaries
- County Boundary
- Watersheds
- Delaware River Basin
- Chesapeake Bay Basin
- Pickering Creek Reservoir - Not Assessed as of 2020 Report

DATA SOURCES:
2020 Non-Attaining Streams; 2020 Attaining Streams; 2020 Non-Attaining Lakes; 2020 Attaining Lakes - Pennsylvania Department of Environmental Protection. Data downloaded from Pennsylvania Spatial Data Access (PASDA) web site in October 2020.
Administrative Boundaries and Watersheds - Chester County, 2021.

DISCLAIMER:
This map was generated using the best information available at the time of publication. This map should not be relied upon as the sole basis of determination of regulatory requirements or responsibilities. The relevant PADEP reports and other documents should be consulted for official designations and associated regulatory information. Should any conflicts exist between this map and the PADEP reports and regulations, the latter supersede this map.

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Chester County Water Resources Authority
www.chesco.org/water
February 8, 2021



THE NEED FOR AN UPDATE

- Compliance with PA DEP's "2022 Model Stormwater Management Ordinance"
- Continued growth and development pressures
- Increased prevalence of intense storm events
- Opportunity to incorporate municipal and public input

UPDATE PROCESS

- Over 30 public and stakeholder input meetings and presentations since early in 2019
- April 16, 2021: Presented proposed changes at Chester County Municipal Stormwater Summit
- September 21, 2021: Presented the proposed provisions of the updated ordinance
- November 5, 2021: Plan Advisory meeting to present Final Draft
- November 23, 2021-January 7, 2022: Posted for Public Review

UPDATE PROCESS



UPDATE PROCESS

Formally recommended to the Chester County Board of Commissioners for adoption by the....

- Chester County Planning Commission
- Chester County Conservation District
- Chester County Water Resources Authority

Commissioners adopted Resolution 06-22 at public hearing on February 10 which officially amends County-wide Act 167 Plan

PA DEP COMMENTS

PA DEP's required changes:

- Section 305.A: Revert to 2013 ordinance language – no increase in volume up to 2-year 24-hour storm
- Section 309.B: update NOAA Atlas 14 reference
- Section 706: Inspection Frequencies

SUMMARY OF FINAL PROVISIONS

Minimum Applicability

- Regulated activity: any earth disturbance that alters runoff
- **Regulated Impervious Surfaces: proposed new impervious surfaces and existing impervious surfaces installed after adoption of 2013 model ordinance**
- ≥ 1000 sq. ft. of Regulated Impervious Surface – full ordinance applies
- $< 1,000$ sq. ft. – prohibited from causing pollution or altering runoff from property (no plan or municipal review required)

SUMMARY OF FINAL PROVISIONS

Minimum Required Standards

- **Downgradient Property:** No changes in peak rate discharges (up to 100-year storm) or **volume of runoff up to 2-year storm to downgradient properties**
- **Water Quality and Volume Control:** No net increase in runoff of 2-year storm
- **Infiltration:** Minimum 1" runoff from impervious surfaces must be infiltrated
- **Stream Channel Protection:** 2-year post-development peak rate reduced to 1-year pre peak rate; attenuate 1-year 24-hour runoff
- **Peak Rate Runoff Controls:** 5- and 10-year post-development reduced to 2-yr pre; no increase in peak rate up to 100-year storm
- **Permanent Protection and O&M Agreements:** Required to be recorded as part of public record
- **Long-term Operation, Maintenance and Inspections**

SUMMARY OF FINAL PROVISIONS

Optional Provisions for Relaxed Controls

- **Exempt Activities** – agricultural related activities, residential in-footprint replacement; municipal road shoulder improvements; maintenance of existing gravel and paved surfaces, etc.
- **Small Projects** – option to require “Simplified Method” for projects up to 2,000 sq. ft. of proposed impervious
- **Agricultural Structures** – option for projects with up to 15,000 sq. ft. of impervious cover area be designed through Conservation Design Plan process and exempt from municipal review/approval (**Modified Option**)

SUMMARY OF FINAL PROVISIONS

Optional Provisions for Relaxed Controls

- **Peak Rate Controls (Section 308)** – Options to reduce 5-year and 10-year post-development to 5-year and 10-year pre-development
- **Redevelopment Rate Controls (Section 308.C)** – Can chose to relax rate controls for projects where impervious area is reduced by 20% or more (**Modified Option**)
- **Article VII** – Municipality may modify submittal, review, and approval process to meet their needs (**Modified Option**)

SUMMARY OF FINAL PROVISIONS

Increased Emphasis on Conservation Design, Low Impact Development, and Green Infrastructure



Rain garden



Green roof



Permeable pavement



Infiltration trench



Landscape water body

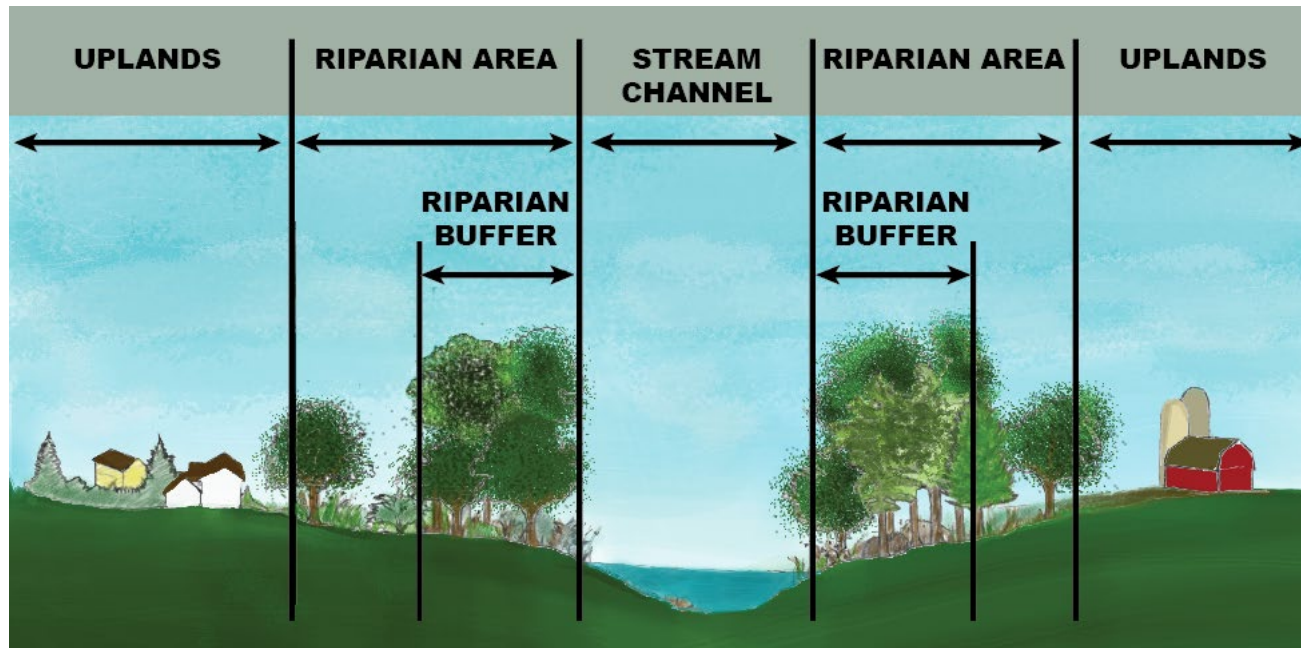


Grassed swale

SUMMARY OF FINAL PROVISIONS

Riparian Buffer Requirements

- **Section 312** – Riparian buffer easements (optional)
 - Ordinance recommends including either the full extent of the 100-year floodplain or 100 feet from the top of the streambank



SUMMARY OF FINAL PROVISIONS

Inspection Requirements:

Article VII (O&M Responsibilities and Easements):

- Inspection Requirements (Section 706)
 - **Provide two options:**
 - Municipal Inspection covered by a Stormwater BMP Maintenance Fund (included in original ordinance)
 - Landowner or Owner's Designee Inspection Requirements
 - Municipalities can include both options in their ordinance

SUMMARY OF FINAL PROVISIONS

Inspection Requirements:

- **Option 1 Inspection frequencies:**
 1. Annually for the first 5 years.
 2. Once every 3 years thereafter.
 3. During or immediately after the cessation of a 25-year or greater storm
 4. **Landowner inspection after 10-year storm (if requested)**

- **Option 2 Inspection frequencies:**
 1. Annually for the first 5 years.
 2. Once every 3 years thereafter.
 3. **During or immediately after the cessation of a 10-year or greater storm (reports only submitted if requested)**

SUMMARY OF FINAL PROVISIONS

Section 801.C: Authorized Discharges

Required changes:

- Potable water sources cannot contain detectable Total Residual Chlorine Concentrations
- Non-contaminated HVAC condensation and water from geothermal systems
- Revised “irrigation drainage” to be specified as “non-contaminated irrigation drainage water”
- Removed: swimming pool discharges

SUMMARY OF FINAL PROVISIONS

Pet Waste Management

- Section 803: Added Pet Waste section that requires all pet owners to properly dispose of pet waste on property that is not owned by that person
- **Only required for MS4 municipalities that have outfalls that discharge to streams impaired by pathogens**



SUMMARY OF FINAL PROVISIONS

Benefits of Updated Model Ordinance

- Continues to provide a consistent framework for stormwater management across the County
- Satisfies state regulatory requirements, including municipal MS4 requirements
- Improved ease of installing stormwater management for small projects
- Increased focus on utilizing green infrastructure and low impact development practices to control runoff
- Promotes the protection of the County's streams, riparian areas, wetlands, and floodplains

TOOLS FOR IMPLEMENTATION

Chesco.org/StormwaterOrdinance

Water Resources Plan and
Updates Underway

Water Quality in Chester
County

Flooding and Stormwater
Reduction

Maps, Reports and Data

Get Involved ... Local
Watershed Groups

Sustainable Water Supply
Management

[Home](#) › [Government](#) › [Departments](#) › [Water Resources Authority](#) › [Water Resources Plan and Updates Underway](#) › [Updating County-Wide Stormwater Ordinance](#)

2022 County-wide Act 167 Stormwater Management Model Ordinance

On February 10, 2022, the Chester County Board of Commissioners adopted Resolution 06-22 to amend the *County-wide Act 167 Stormwater Management Plan for Chester County, PA* to replace the 2013 model ordinance with the 2022 County-wide Act 167 Stormwater Management Model Ordinance.

Links to the adopted Model Ordinance and supporting documents can be found below. The first link directs to a PDF file of the Model Ordinance with all appendices. The second link will open a Word file showing a marked-up version of the Model Ordinance, with text added to the original ordinance highlighted in green and text that has been deleted from the original model ordinance highlighted in red with a strike through the deleted text. Word files of each of the updated appendices are also linked below for editorial convenience, with the exception of Appendix C, which is available as a PDF. If you wish to make changes to Appendix C, please contact CCWRA.

County-wide Act 167 Stormwater Management Ordinance

- [County-wide Act 167 Model Ordinance and Appendices \[Addendum to 2013 County-wide Stormwater Management Plan\] \(PDF\)](#)
- [County-wide Act 167 Stormwater Management Model Ordinance with all changes highlighted \(Word\)](#)
- [Model Ordinance Appendix A: Simplified Approach to Stormwater Management for Small Projects \(Word\)](#)
- [Model Ordinance Appendix B: Conservation Design and Low Impact Development Site Design \(Word\)](#)
- [Model Ordinance Appendix C \(Complete PDF\):](#)
 - [Cover Pages for Editing \(Word\)](#)
 - [Runoff Coefficients and Curve Numbers \(PDF\)](#)

Registration for Model Ordinance Implementation Workshops

The Chester County Water Resources Authority will host two implementation workshops to assist municipalities with updating their stormwater ordinance. Both workshops will be held in Room 351 East at the Government Services Center at 601 Westtown Road, West Chester, PA and will be streamed via Zoom.

Implementation Workshop #1:

May 6 from 9:00 to 11:00 AM

[In-person Registration](#)

[Zoom Registration](#)

Implementation Workshop #2:

May 24 from 1:00 to 3:00 PM

[In-person Registration](#)

[Zoom Registration](#)

Please email us at water@chesco.org if you have difficulty registering or if you have any other questions relating to the updated Model Ordinance.

TOOLS FOR IMPLEMENTATION

L. Evapotranspiration may be quantified and credited towards meeting volume requirements according to the PADEP Post Construction Stormwater Management (PCSM) Spreadsheet and Instructions (December 2020) or the most recent guidance from PADEP.

Section 306. Infiltration Requirements

Providing for infiltration consistent with the natural hydrologic regime is required to compensate for the reduction in the recharge that occurs when the ground surface is disturbed, or Impervious Surface is created or expanded. The Applicant shall achieve the following infiltration requirements:

- A. For Regulated Activities involving both New Development and Redevelopment, ~~Wherever possible,~~ infiltration should be designed to accommodate the entire water quality and runoff volume required in Section 305. Infiltration BMPs should be consistent with the design and infiltration period guidelines included in the PA BMP Manual or other PA DEP design guidance. If the runoff volume required by Section 305 cannot be infiltrated, then alternative methods consistent with the PA BMP Manual (as amended) or other PA DEP guidance, such as the Managed Release Concept, may be used to manage this volume with approval from the Municipal Engineer.

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County-wide Act 167 Model Ordinance February 10, 2022

- B. For Regulated Activities involving both New Development and Redevelopment, the volume of a minimum of one (1)-inch of runoff from all Regulated Proposed Impervious Surfaces shall be infiltrated.

~~C. For Regulated Activities involving Redevelopment, whichever is less of the following volume options shall be infiltrated:~~

~~1. The volume of a minimum of one (1)-inch of runoff from all Proposed Impervious Surfaces;~~

~~OR~~

~~2. The total water quality and runoff volume required in Section 305 of this Ordinance~~

TOOLS FOR IMPLEMENTATION

General Editorial Notes:

- *Text that needs to be inserted by the Municipality is yellow shaded*
- Cross-references to Articles, Sections, Subsections, Tables, and Appendices are grey shaded
- All shading and strike through text should be removed prior to adoption
- Municipality will need to include final page numbers in TOC

TOOLS FOR IMPLEMENTATION

NOTE TO EDITOR: Include Subsection 102.G if your Municipality is required to have an NPDES MS4 permit. If the Municipality does NOT have this requirement, the following is optional. If the Municipality includes this section, Sections 102.H and 102.I below will need to be renumbered accordingly.

- A. Federal and State regulations require the Municipality to implement a program of stormwater controls. The Municipality is required to obtain a permit and comply with its provisions for stormwater discharges from its Separate Storm Sewer System under the National Pollutant Discharge Elimination System (NPDES).

- All “Notes to Editor” and associated italicized text are intended to be deleted prior to adoption

TOOLS FOR IMPLEMENTATION

Summary of Changes Table

Chester County Act 167 Model Ordinance Updates – Summary of Changes

This table was created to document significant changes made to the County-wide Act 167 Stormwater Management Model Ordinance. These changes were made to address public, stakeholder, and municipal input, to ensure consistency with the Pennsylvania Department of Environmental Protection's (PA DEP) 2022 Model Stormwater Management Ordinance, and to comply with the Pennsylvania Stormwater Management Act. This table summarizes the changes and does not include minor administrative updates. For complete documentation of the updates, please reference the Model Ordinance document itself.

No.	Topic	Change	Reason for Update	Location Reference	Comments
1	Notes to Municipal Editor	Added new optional Section/Subsection references to 9) and Added 14) explaining how 2022 updates are shown in the Model Ordinance.	General Update	Notes to Municipal Editor	Revised to reflect updates to Ordinance.
2	Green Infrastructure and Low Impact Development	Added statement regarding the intentions of Green Infrastructure (GI) and Low Impact Development (LID) use.	2022 MS4 Requirement	Subsection 102.I	Inserted language directly from PA DEP 2022 Model SWM Ordinance
3	Exemptions	Added High Tunnels language.	Act 167 Requirement	Subsection 106.C.5.c	Inserted language directly from Act 167 amendment
4	Exemptions	Added language specifying that infiltration testing is recommended for projects using the Simplified Approach but is not required by this ordinance.	Public Comment	106.D	Incorporated to clarify infiltration testing requirements for the Simplified Approach.
5	Exemptions	Modified Exemption Threshold for Agricultural Structures	Public Comment	106.E	Modified the language in the ordinance to clarify that projects with less than 15,000 square feet of total new Impervious Surface (including vehicle parking and movement areas) can be eligible for exemption from the ordinance provisions outlined in Subsection 106.E.
6	Exemptions	Updated "Maintenance of Existing Paved Surfaces" to include gravel surfaces.	General Update	Subsection 106.C.7	Gravel surfaces used for vehicular movement and parking are considered Impervious Surfaces per the definition in the Countywide Model Ordinance. This section was updated for consistency.
7	Modified Requirements for Small Projects	Updated the Note to Editor that explains the optional Simplified Approach options.	Consistency with Appendix A.2/Public Input	Subsection 106.D	Updated to explain if municipalities elect to use the Simplified Approach, they may choose to continue using the original version adopted under the previous

TOOLS FOR IMPLEMENTATION

Matrix of Minimum Standards

**County-wide Act 167 Stormwater Management Plan
Matrix of Minimum Mandatory Ordinance Standards
For Municipal Act 167 Ordinances – February 10, 2022**

Number	Component	Description ³	Cross Reference to Model Ordinance
M = Mandatory OPT = Optional INFO = FYI	Listed in the order they appear in the County-wide Model Ordinance		
OPT-4	Protection of Downgradient Properties	OPTIONAL: The Municipality may, at its option, insert the language from the first Note to Editor in Subsection 301.G, <u>exactly as written</u> , to specify a size threshold for the applicability of Subsection 301.G.	• Subsection 301.G • Subsection 301.G (first Note to Editor)
OPT-5	Protection of Downgradient Properties	OPTIONAL: The Municipality may, at its option, modify the language of Subsection 301.G with either option of text <u>exactly as written</u> in the second Note to Editor box in Subsection 301.G to create a less stringent provision for smaller projects.	• Subsection 301.G • Subsection 301.G.1 (second Note to Editor)
OPT-6	Conveyance of Drainage from outside of Site through the Site	OPTIONAL: The Municipality may, at its option, insert the language from Subsection 301.H to not require control of runoff from outside of the Site and to safely convey those flows through the site.	• Subsection 301.H
M-23	Mitigation of By-pass of BMPs	MANDATORY: Subsection 301.I, <u>exactly as written</u> , must be included in the Municipality's ordinance. NOTE – include the 5-year storm and/or the 10-year storm in Subsection 301.I only if the Municipality's final peak rate controls (as presented in Table 308.1 of the Model Ordinance) require the 5-year and/or the 10-year storm peak rate to be reduced to the 2-year storm peak rate.	• Subsection 301.I • Subsection 301.I Note to Editor
M-24	BMPS to Meet Requirements of State Law	MANDATORY: • Subsection 301.J, <u>exactly as written</u>, must be included in the Municipality's ordinance. • Subsection 301.K, <u>exactly as written</u>, must be included in the Municipality's ordinance.	• Subsection 301.J • Subsection 301.K
M-25	Hotspots and Contaminated Sites	MANDATORY: • Subsection 301.N, <u>or equivalent performance standard</u>, must be included in the Municipality's ordinance. • Subsection 301.O, <u>or equivalent performance standard</u>, must be included in the Municipality's ordinance.	• Subsection 301.N • Subsection 301.O
OPT-7	Additional Water Quality/TMDL Requirements ²	OPTIONAL: Subsection 301.P, <u>or equivalent performance standard</u> , may be included in the Municipality's ordinance to provide additional protections for special management areas. • See also OPT-13 (regarding Subsection 305.G)	• Subsection 301.P • Subsection 301.P Note to Editor

TOOLS FOR IMPLEMENTATION

List of Options for Modifying Standards and Requirements

County-wide Act 167 Stormwater Management Plan
List of Model Ordinance Sections with Options for Modifying
Standards and Requirements– February 10, 2022

	167 Plans	167 Plans.
Subsection 309.D.2.c	Calculation Methodology: Redevelopment	NEW: Municipalities may elect to increase the requirement to “assume that at least 20% of the existing Impervious Surface area to be disturbed as ‘meadow’ ground cover” in Subsection 309.D.2.c, from 20% up to 40% to make the Ordinance more stringent.
Section 311	Other Conveyance and System Design Standards	MODIFIED REQUIREMENT: The Municipality may choose to include design standards or include a cross-reference to other ordinance/codes where those design standards are codified. <u>If the Municipality does not have existing design standards, reference can be made to PennDOT specifications or the PA BMP Manual (as amended), as applicable.</u>
Section 312	Riparian Buffer Protection Standards	NEW: The Municipality may choose to include the Riparian Buffer standards included in Section 312 into their Ordinance. The Municipality should review riparian buffer provisions that may be included in the Subdivision and Land Development Ordinance, Zoning Ordinance, or other parts of the Municipality’s Code and edit for consistency.

Section 312	Riparian Buffer Protection Standards	NEW: The municipality may choose to include the riparian buffer standards included in Section 312 into their Ordinance. The Municipality should review riparian buffer provisions that may be included in the Subdivision and Land Development Ordinance, Zoning Ordinance, or other parts of the Municipality’s Code and edit for consistency.
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NEXT STEPS FOR MUNICIPALITIES

- 1) **Work backwards** from 9/30/22 adoption due date and request to be added to agenda of public meetings (Planning Commission, Board/Council, etc.)
- 2) Obtain **Word document** of current ordinance
- 3) Enter updates as “**track changes**” based on 2022 County-wide Ordinance
- 4) **Municipal Engineer** to complete updates or at least provide input
- 5) **Solicitor** to review and format for adoption (amend current ordinance or full replacement)
- 6) Present at **public meeting(s)**
- 7) **Adoption** by Board/Council
- 8) Review and update **supporting implementation documents** (permit applications, website, etc.) as needed

NEXT STEPS FOR MUNICIPALITIES

STATEMENT OF CERTIFICATION

MUNICIPAL ORDINANCE STANDARDS COMPLIES WITH
THE COUNTY-WIDE ACT 167 STORMWATER MANAGEMENT PLAN
FOR CHESTER COUNTY, PENNSYLVANIA (Approved _____)

The undersigned hereby certifies that Ordinance Number _____,
adopted on _____, has been enacted to implement the
County-wide Act 167 Stormwater Management Plan by _____
[municipality]
and fulfills the requirements of Section 11(b) of the Pennsylvania Stormwater Management
Act, Act 167, as set out below.

Section 11(b) of the Pennsylvania Stormwater Management Act, Act 167:
“Within six months following adoption and approval of the watershed storm water plan,
each municipality shall adopt or amend, and shall implement such ordinances and
regulations, including zoning, subdivision and development, building code, and erosion
and sedimentation ordinances, as are necessary to regulate development within the
municipality in a manner consistent with the applicable watershed storm water plan and
the provisions of this act.”

Certified By:

_____ Signature	_____ Date
_____ Name	_____ Title

Questions?

water@chesco.org
chesco.org/water
610-344-5400

