

**NPDES General Permit for Storm Water Discharges From Construction Activities**

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**National Pollutant Discharge Elimination System  
General Permit for Discharges from  
Large and Small Construction Activities**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, operators of large and small construction activities that are described in Subpart 1.3 of this National Pollutant Discharge Elimination System (NPDES) general permit, except for those activities excluded from authorization of discharge in Subpart 1.3.C of this permit are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein. Permit coverage is required from the "commencement of construction activities" until "final stabilization" as defined in Appendix A.

This permit shall become effective on July 1, 2003.

This permit and the authorization to discharge shall expire at midnight, July 1, 2008.

Signed:

Linda M. Murphy, Director, Office of Ecosystem Protection  
EPA Region 1

Kevin Bricke, Acting Director, Division of Environmental Planning and Protection  
EPA Region 2

Carlos E. O'Neill, P.E., Acting Division Director, Caribbean Environmental Protection Division  
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Stephen S. Tuber, Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance  
EPA Region 8

Nancy Woo, Acting Director, Water Division  
EPA Region 9

Randall F. Smith, Director, Office of Water  
EPA Region 10

The signatures are for the permit conditions in Parts 1 through 9 and Appendices A through G and for any additional conditions which apply to facilities located in the corresponding state, Indian country, or other area.

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**PART 1: COVERAGE UNDER THIS PERMIT**
**1.1 Introduction**

This Construction General Permit (CGP) authorizes storm water discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the United States or a municipal separate storm sewer system (MS4) leading to surface waters of the United States subject to the conditions set forth in this permit. This permit also authorizes storm water discharges from any other construction activity designated by EPA where EPA makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the United States. This permit replaces two permits issued in 1998 (63 FR 7858, February 17, 1998 for EPA Regions 1, 2, 3, 7, 8, 9, and 10 and 63 FR 36489, July 6, 1998 for EPA Region 6). Any references to the 1998 CGP in this permit refer to those two permits.

This permit is presented in a reader-friendly, plain language format. This permit uses the terms “you” and “your” to identify the person(s) who owns or operates a “facility” or “activity” as defined in Appendix A and who must comply with the conditions of this permit. This format should allow you, the permittee and operator of a large or small construction activity, to easily locate and understand applicable requirements.

The goal of this permit is to reduce or eliminate storm water pollution from construction activity by requiring that you plan and implement appropriate pollution control practices to protect water quality.

**1.2 Permit Area**

If your large or small construction activity is located within the areas listed in Appendix B, you may be eligible to obtain coverage under this permit. Permit coverage is actually provided by legally separate and distinctly numbered permits covering each of the areas listed in Appendix B.

**1.3 Eligibility**

Permit eligibility is limited to discharges from “large” and “small” construction activity as defined in Appendix A or as otherwise designated by EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. You may have to take certain actions to be eligible for coverage under this permit. In such cases, you must continue to satisfy those eligibility provisions to maintain permit authorization. If you do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if you do not comply with the requirements of the general permit, you may be in violation of the general permit for your otherwise eligible discharges.

**A. Allowable Storm Water Discharges**

Subject to compliance with the terms and conditions of this permit, you are authorized to discharge pollutants in:

1. Storm water associated with large and small construction activity as defined in Appendix A;
2. Storm water discharges designated by EPA as needing a storm water permit under 40 CFR §122.26(a)(1)(v) or §122.26(b)(15)(ii);
3. Discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
  - a. The support activity is directly related to the construction site required to have NPDES permit coverage for discharges of storm water associated with construction activity;
  - b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
  - c. Appropriate controls and measures are identified in a Storm Water Pollution Prevention Plan (SWPPP) covering the discharges from the support activity areas; and
4. Discharges composed of allowable discharges listed in 1.3.A and 1.3.B commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

**B. Allowable Non-Storm Water Discharges**

You are authorized for the following non-storm water discharges, provided the non-storm water component of the discharge is in compliance with Subpart 3.5 (Non-Storm Water Discharge Management):

1. Discharges from fire-fighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles where detergents are not used;
4. Water used to control dust in accordance with Subpart 3.4.G;
5. Potable water including uncontaminated water line flushings;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering;
12. Landscape irrigation.

**C. Limitations on Coverage**

1. This permit does not authorize post-construction discharges that originate from the site after construction activities have been completed and the site has achieved final stabilization, including any temporary support activity. Post-construction storm water discharges from industrial sites may need to be covered by a separate NPDES permit.
2. This permit does not authorize discharges mixed with non-storm water. This exclusion does not apply to discharges identified in Subpart 1.3.B, provided the discharges are in compliance with Subpart 3.5 (Non-Storm Water Discharge Management).
3. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Subpart 4.2.
4. This permit does not authorize discharges that EPA, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify you that an individual permit application is necessary in accordance with Subpart 4.2. However, EPA may authorize your coverage under this permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring your discharge into compliance with water quality standards.
5. *Discharging into Receiving Waters With an Approved Total Maximum Daily Load Analysis*
  - a. You are not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless you incorporate into your SWPPP measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, you must incorporate into your SWPPP any conditions applicable to your discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to your discharge, you must incorporate that allocation into your SWPPP and implement necessary steps to meet that allocation.
  - b. In a situation where an EPA-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, you should consult with the State or Federal TMDL authority to confirm that adherence to a SWPPP that meets the requirements of the CGP will be consistent with the approved TMDL. Where an EPA-approved or established TMDL has not

specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of the CGP will generally be assumed to be consistent with the approved TMDL. If the EPA-approved or established TMDL specifically precludes such discharges, the operator is not eligible for coverage under the CGP.

6. *Endangered and Threatened Species and Critical Habitat Protection*

- a. Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities, as defined in Appendix A, are not likely to jeopardize the continued existence of any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is federally-designated as critical under the ESA ("critical habitat").
- b. You are not eligible to discharge if the storm water discharges, allowable non-storm water discharges, or storm water discharge-related activities would cause a prohibited "take" of federally-listed endangered or threatened species (as defined under section 3 of the ESA and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the ESA.
- c. **Determining Eligibility:** You must use the process in Appendix C (ESA Review Procedures) to determine eligibility *PRIOR* to submittal of the Notice of Intent (NOI). You must meet one or more of the following six criteria (A-F) for the entire term of coverage under the permit:

- Criterion A. No federally-listed threatened or endangered species or their designated critical habitat are in the project area as defined in Appendix C; or
- Criterion B. Formal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:
- i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
  - ii. The consultation resulted in either:
    - a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
    - b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or
- Criterion C. Informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:
- i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
  - ii. The consultation resulted in either:
    - a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
    - b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or
- Criterion D. The construction activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed species and federally-designated critical habitat; or
- Criterion E. Storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect any federally-listed

threatened or endangered species or result in the destruction or adverse modification of federally-designated critical habitat; or

- Criterion F. The project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities were already addressed in another operator's valid certification of eligibility under Criteria A-E which included your construction activities and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the project area. By certifying eligibility under this criterion, you agree to comply with any measures or controls upon which the other operator's certification was based.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility requirements of the criteria in this section to remain eligible for coverage under this permit. Such terms and conditions must be documented and incorporated into your SWPPP.

#### 7. Historic Properties

*[Reserved]*

You are reminded that you must comply with applicable state, tribal and local laws concerning the protection of historic properties and places.

#### 1.4 Waivers for Certain Small Construction Activities

Three scenarios exist under which small construction activities (see definition in Appendix A) may be waived from the NPDES permitting requirements detailed in this general permit. These exemptions are predicated on certain criteria being met and proper notification procedures being followed. Details of the waiver options and procedures for requesting a waiver are provided in Appendix D.

### PART 2: AUTHORIZATION FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITY

To obtain coverage under this general permit, you, the operator, must prepare and submit a complete and accurate Notice of Intent (NOI), as described in this Part. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage.

#### 2.1 Authorization to Discharge Date

This permit is effective as of the publication date in the Federal Register and is effective for five years, expiring at midnight on the anniversary of publication in the fifth year.

- A. If you submit an NOI during the first 90 days after the issuance date of this permit you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after submittal to EPA of a complete and accurate NOI (i.e., 7 days from date of postmark), except as noted in Subpart 2.1.C.
- B. If you submit an NOI after the first 90 days of this permit and prior to the expiration date of this permit, you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after acknowledgment of receipt of your complete NOI is posted on EPA's NPDES website <http://www.epa.gov/npdes/stormwater/cgp>, except as noted in Subpart 2.1.C.
- C. EPA may delay your authorization based on eligibility considerations of Subpart 1.3 (e.g., ESA concerns). In these instances, you are not authorized for coverage under this permit until you receive notice from EPA of your eligibility.

#### 2.2 Notice of Intent Contents

- A. You must use the NOI form provided in Appendix E (or a photocopy thereof) and available at [www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp). If EPA makes other NOI forms available (either directly, by public notice, or by making information available on the Internet), you may take advantage of any of those options to satisfy the NOI use requirements of this Subpart.
- B. You must provide the following information on the NOI form:
  1. The applicable permit number for which you are requesting coverage (See Appendix B);

2. Operator name, address, telephone number, and Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
3. Project/Site name, address, county or similar governmental subdivision, and latitude/longitude of your construction project or site;
4. Whether your site is located in Indian country and if so, the name of the Reservation, if applicable;
5. Whether the SWPPP has been prepared in advance of filing of this NOI and the location where the applicable SWPPP may be viewed;
6. Name of the water(s) of the U.S. into which your site discharges;
7. Indication whether your discharge is consistent with the assumptions and requirements of applicable EPA approved or established TMDLs;
8. Estimated dates of commencement of construction activity and final stabilization (i.e., project start and completion dates);
9. Total acreage (to the nearest quarter acre) to be disturbed for which you are requesting permit coverage;
10. Whether any federally-listed threatened or endangered species, or federally-designated critical habitat are in your project area to be covered by this permit, and the basis for certifying eligibility for permit coverage based on the instructions in Appendix C;
11. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11, and the name and title of that authorized representative.

### 2.3 Submission Deadlines

- A. *New Projects*: To obtain coverage under this permit, you must submit a complete and accurate NOI and be authorized consistent with Subpart 2.1 prior to your commencement of construction activities.
- B. *Permitted Ongoing Projects (only applicable for first 90 days after this permit is issued)*: If you previously received authorization to discharge for your project under the 1998 CGP and you wish to continue coverage under this permit:
  1. Except as noted in 2.3.B.2, you must:
    1. Submit an NOI within 90 days of the issuance date of this permit, and
    2. Until you are authorized under this permit consistent with Subpart 2.1, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.
  2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must:
    1. Submit an NOT consistent with the 2003 CGP using the NOT form provided in Appendix F, and
    2. Until coverage is no longer required, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.
- C. *Unpermitted Ongoing Projects (only applicable for first 90 days after this permit is issued)*: If you previously did not receive authorization to discharge for your project under the 1998 CGP and you wish to obtain coverage under this permit:
  1. Except as noted in 2.3.C.2, you must:
    1. Submit an NOI within 90 days of the issuance date of this permit, and
    2. Until you are authorized under this permit consistent with Subpart 2.1, comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP.
  2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP until permit coverage is no longer required.

- D. *Late Notifications:* Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Subpart 2.1. The Agency reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance that occur between the commencement of construction and discharge authorization.

#### 2.4 Where to Submit

- A. Except as noted in Subpart 2.3.B, you must send your complete and accurate NOI to EPA at one of the following addresses:

For Regular U.S. Mail Delivery:

EPA Storm Water Notice Processing Center  
Mail Code 4203M  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

For Overnight/Express Mail Delivery:

EPA Storm Water Notice Processing Center  
Room 7420  
U.S. EPA  
1201 Constitution Avenue, NW  
Washington, DC 20004

- B. In lieu of Subpart 2.4.A, when available, you may submit your NOI using EPA's electronic NOI system (i.e., eNOI) as detailed at [www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp).

### PART 3: STORM WATER POLLUTION PREVENTION PLANS (SWPPPS)

#### 3.1 Storm Water Pollution Prevention Plan Framework

- A. A SWPPP must be prepared prior to submission of an NOI as required in Part 2. At least one SWPPP must be developed for each construction project covered by this permit and such SWPPP must be prepared in accordance with good engineering practices.
- B. The SWPPP must:
1. Identify all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site;
  2. Describe practices to be used to reduce pollutants in storm water discharges from the construction site; and
  3. Assure compliance with the terms and conditions of this permit.
- C. Once a definable area has been finally stabilized, you may mark this on your SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc).
- D. You must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

#### 3.2 Requirements for Different Types of Operators

You may meet one or both of the operational control components in the definition of operator found in Appendix A. Subpart 3.2.C applies to all permittees having control over only a portion of a construction site.

- A. If you have operational control over construction plans and specifications, you must ensure that:
1. The project specifications meet the minimum requirements of this Subpart and all other applicable permit conditions;
  2. The SWPPP indicates the areas of the project where the operator has operational control over project specifications, including the ability to make modifications in specifications;
  3. All other permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner; and
  4. The SWPPP indicates the name of the party(ies) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions.

- B. If you have operational control over day-to-day activities, you must ensure that:
1. The SWPPP meets the minimum requirements of this Subpart and identifies the parties responsible for implementation of control measures identified in the plan;
  2. The SWPPP indicates areas of the project where you have operational control over day-to-day activities;
  3. The SWPPP indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).
- C. If you have operational control over only a portion of a larger project (e.g., one of four homebuilders in a subdivision), you are responsible for compliance with all applicable terms and conditions of this permit as it relates to your activities on your portion of the construction site, including protection of endangered species, critical habitat, and historic properties, and implementation of best management practices (BMPs) and other controls required by the SWPPP. You must ensure either directly or through coordination with other permittees, that your activities do not render another party's pollution control ineffective. You must either implement your portion of a common SWPPP or develop and implement your own SWPPP.

For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required to, develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, cooperation between the permittees is encouraged to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

### **3.3 Pollution Prevention Plan Contents: Site and Activity Description**

- A. The SWPPP must identify all operators for the project site, and the areas of the site over which each operator has control.
- B. The SWPPP must describe the nature of the construction activity, including:
1. The function of the project (e.g., low density residential, shopping mall, highway, etc.);
  2. The intended sequence and timing of activities that disturb soils at the site;
  3. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and
  4. A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and waters of the United States within one mile of the site.
- C. The SWPPP must contain a legible site map, showing the entire site, identifying:
1. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
  2. Areas of soil disturbance and areas that will not be disturbed;
  3. Locations of major structural and nonstructural BMPs identified in the SWPPP;
  4. Locations where stabilization practices are expected to occur;
  5. Locations of off-site material, waste, borrow or equipment storage areas;
  6. Locations of all waters of the United States (including wetlands);
  7. Locations where storm water discharges to a surface water; and
  8. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.
- D. The SWPPP must describe and identify the location and description of any storm water discharge associated with industrial activity other than construction at the site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants, that are covered by this permit.

### 3.4 Pollution Prevention Plan Contents: Controls to Reduce Pollutants

- A. The SWPPP must include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. For each major activity identified in the project description the SWPPP must clearly describe appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.
- B. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.
- C. The following records must be maintained as part of the SWPPP:
  - 1. Dates when major grading activities occur;
  - 2. Dates when construction activities temporarily or permanently cease on a portion of the site; and
  - 3. Dates when stabilization measures are initiated.
- D. The SWPPP must include a description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Placement of structural practices in floodplains must be avoided to the degree practicable.
- E. The SWPPP must include a description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree practicable. Such measures must be designed and installed in compliance with applicable federal, local, state or tribal requirements.
- F. The SWPPP must describe measures to prevent the discharge of solid materials, including building materials, to waters of the United States, except as authorized by a permit issued under section 404 of the CWA.
- G. The SWPPP must describe measures to minimize, to the extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.
- H. The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP must also include a description of controls, including storage practices, to minimize exposure of the materials to storm water, and spill prevention and response practices.
- I. The SWPPP must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

### 3.5 Non-Storm Water Discharge Management

The SWPPP must identify all allowable sources of non-storm water discharges listed in Subpart 1.3.B of this permit, except for flows from fire fighting activities, that are combined with storm water discharges associated with construction activity at the site. Non-storm water discharges should be eliminated or reduced to the extent feasible. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

### 3.6 Maintenance of Controls

- A. All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Subpart 3.10 identify BMPs that are not operating effectively, maintenance must be performed as soon as possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.
- B. If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as possible.
- C. Sediment from sediment traps or sedimentation ponds must be removed when design capacity has been reduced by 50 percent.

**3.7 Documentation of Permit Eligibility Related to Endangered Species**

The SWPPP must include documentation supporting a determination of permit eligibility with regard to Endangered Species, including:

- A. Information on whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the project area;
- B. Whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project;
- C. Results of the Appendix C listed species and critical habitat screening determinations;
- D. Confirmation of delivery of NOI to EPA or to EPA's electronic NOI system. This may include an overnight, express or registered mail receipt acknowledgment; or electronic acknowledgment from EPA's electronic NOI system.
- E. Any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others and you regarding listed species and critical habitat, including any notification that delays your authorization to discharge under this permit;
- F. A description of measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat. The permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

**3.8 Copy of Permit Requirements**

Copies of this permit and of the signed and certified NOI form that was submitted to EPA must be included in the SWPPP. Also, upon receipt, a copy of the letter from the EPA Storm Water Notice Processing Center notifying you of their receipt of your administratively complete NOI must also be included as a component of the SWPPP.

**3.9 Applicable State, Tribal, or Local Programs**

The SWPPP must be consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management, including updates to the SWPPP as necessary to reflect any revisions to applicable federal, state, tribal, or local requirements for soil and erosion control.

**3.10 Inspections**

- A. Inspections must be conducted in accordance with one of the two schedules listed below. You must specify in your SWPPP which schedule you will be following.
  1. At least once every 7 calendar days, OR
  2. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
- B. Inspection frequency may be reduced to at least once every month if:
  1. The entire site is temporarily stabilized,
  2. Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or
  3. Construction is occurring during seasonal arid periods in arid areas and semi-arid areas.
- C. A waiver of the inspection requirements is available until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:
  1. The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month);
  2. Land disturbance activities have been suspended; and
  3. The beginning and ending dates of the waiver period are documented in the SWPPP.
- D. Inspections must be conducted by qualified personnel (provided by the operator or cooperatively by multiple operators). "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact

storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.

- E. Inspections must include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to waters of the United States, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.
- F. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Subpart 3.10.E above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25 mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile segment to either the end of the next 0.25 mile inspected segment, or to the end of the project, whichever occurs first.
- G. For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:
  1. The inspection date;
  2. Names, titles, and qualifications of personnel making the inspection;
  3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
  4. Weather information and a description of any discharges occurring at the time of the inspection;
  5. Location(s) of discharges of sediment or other pollutants from the site;
  6. Location(s) of BMPs that need to be maintained;
  7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
  8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
  9. Corrective action required including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this Part must be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with the SWPPP and this permit. The report must be signed in accordance with Appendix G, Section 11 of this permit.

### **3.11 Maintaining an Updated Plan**

- A. The SWPPP, including the site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction site that has or could have a significant effect on the discharge of pollutants to the waters of the United States that has not been previously addressed in the SWPPP.
- B. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state, tribal or federal officials, it is determined that the discharges the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.
- C. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within

seven (7) calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Subpart 3.6.B.

### **3.12 Signature, Plan Review and Making Plans Available**

- A. A copy of the SWPPP (including a copy of the permit), NOI, and acknowledgement letter from EPA must be retained at the construction site (or other location easily accessible during normal business hours to EPA, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) from the date of commencement of construction activities to the date of final stabilization. If you have day-to-day operational control over SWPPP implementation, you must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.
- B. A sign or other notice must be posted conspicuously near the main entrance of the construction site. If displaying near the main entrance is infeasible, the notice can be posted in a local public building such as the town hall or public library. The sign or other notice must contain the following information:
1. A copy of the completed Notice of Intent as submitted to the EPA Storm Water Notice Processing Center; and
  2. If the location of the SWPPP or the name and telephone number of the contact person for scheduling SWPPP viewing times has changed (i.e., is different than that submitted to EPA in the NOI), the current location of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

- C. SWPPPs must be made available upon request by EPA; a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to the requestor. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the EPA staff for review and copying at the time of an on-site inspection.
- D. All SWPPPs must be signed and certified in accordance with Appendix G, Section 11.

### **3.13 Management Practices**

- A. All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the operator must replace or modify the control for site situations as soon as practicable.
- B. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.
- C. Litter, construction debris, and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.
- D. Except as provided below, stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
1. Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
  2. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the site.

3. In arid, semiarid, and drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within 14 days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures must be initiated as soon as practicable.
- E. A combination of sediment and erosion control measures are required to achieve maximum pollutant removal.
1. Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage area from a 2-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location, it is not necessary to include flows from offsite areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the operator may consider factors such as site soils, slope, available area on-site, etc. In any event, the operator must consider public safety, especially as it relates to children, as a design factor for the sediment basin, and alternative sediment controls must be used where site limitations would preclude a safe design.
  2. For drainage locations which serve 10 or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions).
  3. For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided.
- F. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

### **3.14 Documentation of Permit Eligibility Related to Total Maximum Daily Loads**

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an EPA-established or approved TMDL, including:

- A. Identification of whether your discharge is identified, either specifically or generally, in an EPA-established or approved TMDL and any associated allocations, requirements, and assumptions identified for your discharge;
- B. Summaries of consultation with State or Federal TMDL authorities on consistency of SWPPP conditions with the approved TMDL, and
- C. Measures taken by you to ensure that your discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including any specific wasteload allocation that has been established that would apply to your discharge.

See section 1.3.C.5 for further information on determining permit eligibility related to TMDLs.

## **PART 4: SPECIAL CONDITIONS, MANAGEMENT PRACTICES AND OTHER NON-NUMERIC LIMITATIONS**

### **4.1 Continuation of the Expired General Permit**

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until the earliest of:

- A. Reissuance or replacement of this permit, at which time you must comply with the conditions of the new permit to maintain authorization to discharge; or
- B. Your submittal of a Notice of Termination; or
- C. Issuance of an individual permit for the project's discharges; or
- D. A formal permit decision by EPA to not reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

#### **4.2 Requiring an Individual Permit or an Alternative General Permit**

- A. EPA may require you to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA to take action under this paragraph. If EPA requires you to apply for an individual NPDES permit, EPA will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. Applications must be submitted to EPA at the applicable EPA Regional offices listed in Appendix B of this permit. EPA may grant additional time to submit the application upon your request. If you are covered under this permit and you fail to submit in a timely manner an individual NPDES permit application as required by EPA, then the applicability of this permit to you is automatically terminated at the end of the day specified by EPA as the deadline for application submittal.
- B. You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual application in accordance with the requirements of 40 CFR §122.26(c)(1)(ii), with reasons supporting the request, to EPA at the applicable EPA Regional office listed in Appendix B of this permit. The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request.
- C. When an individual NPDES permit is issued to you, who are otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If you, who are otherwise subject to this permit, are denied an individual NPDES permit or an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the date of such denial, unless otherwise specified by EPA.

#### **4.3 Releases in Excess of Reportable Quantities**

The discharge of hazardous substances or oil in storm water discharges from the construction site must be prevented or minimized in accordance with the SWPPP. This permit does not relieve you of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

- you must provide notice to the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and
- you must modify the SWPPP as required under Subpart 3.11 within 7 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. Plans must identify measures to prevent the reoccurrence of such releases and to respond to such releases.

#### **4.4 Spills**

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

**4.5 Attainment of Water Quality Standards After Authorization**

- A. You must select, install, implement and maintain BMPs at your construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained in Subpart 4.5.B below, your SWPPP developed, implemented, and updated consistent with Part 3.0 is considered as stringent as necessary to ensure that your discharges do not cause or contribute to an excursion above any applicable water quality standard.
- B. At any time after authorization, EPA may determine that your storm water discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, EPA will require you to:
- i. Develop a supplemental BMP action plan describing SWPPP modifications in accordance with Subpart 3.11 to address adequately the identified water quality concerns;
  - ii. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
  - iii. Cease discharges of pollutants from construction activity and submit an individual permit application according to Subpart 4.2.

All written responses required under this part must include a signed certification consistent with Appendix G, Section 11.

**PART 5: TERMINATION OF COVERAGE****5.1 Requirements**

You may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

- A. Final stabilization has been achieved on all portions of the site for which you are responsible;
- B. Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized;
- C. Coverage under an individual or alternative general NPDES permit has been obtained; or
- D. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

**5.2 Submitting a Notice of Termination**

It is your responsibility to submit a complete and accurate Notice of Termination (NOT), using the form provided in Appendix F (or a photocopy thereof) available at [www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp). If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy the requirements of Part 5.

- A. The Notice of Termination must include the following information:
1. The NPDES permit tracking number for the storm water discharge;
  2. The basis for submission of the NOT, including: final stabilization has been achieved on all portions of the site for which the permittee is responsible; another operator/permittee has assumed control over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or, for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;
  3. You, the operator's name, address, telephone number and your organization's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
  4. The name of the project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted; and
  5. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11 and the name and title of that authorized representative.

**5.3 Where to Submit**

A. All NOTs must be submitted to one of the following addresses:

For Regular U.S. Mail Delivery:

EPA Storm Water Notice Processing Center  
Mail Code 4203M  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

For Overnight/Express Mail Delivery:

EPA Storm Water Notice Processing Center  
Room 7420  
U.S. EPA  
1201 Constitution Avenue, NW  
Washington, DC 20004

B. In lieu of Subpart 5.3.A, you can submit your NOT to EPA using EPA's electronic system (i.e., eNOI), when available. Check [www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp) for updates.

**PART 6: RETENTION OF RECORDS**

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of EPA at any time.

**PART 7: REOPENER CLAUSE****7.1 Procedures for Modification or Revocation**

Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.

**7.2 Water Quality Protection**

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit in accordance with Part 4.5 of this permit, or the permit may be modified to include different limitations and/or requirements.

**7.3 Timing of Permit Modification**

EPA may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines, that may be promulgated in the course of the current permit cycle.

**PART 8: STANDARD PERMIT CONDITIONS**

The federal regulations require that the Standard Conditions provisioned at 40 CFR §122.41 be applied to all NPDES permits. You are required to comply with those Standard Conditions, details of which are provided in Appendix G.

**PART 9: PERMIT CONDITIONS APPLICABLE TO SPECIFIC STATES, INDIAN COUNTRY, OR TERRITORIES**

The provisions of this Part provide modifications or additions to the applicable conditions of this permit to reflect specific additional conditions required as part of the state or tribal CWA Section 401 certification process, or the Coastal Zone Management Act (CZMA) certification process, or as otherwise established by the permitting authority. The specific additional revisions and requirements only apply to activities in those specific states, Indian country, and federal facilities. States, Indian country, and federal facilities not included in this Part do not have any modifications or additions to the applicable conditions of this permit.

State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be included in this permit. As such, large construction activities in Massachusetts covered under the 1998 CGP will continue to be covered under that permit. EPA will reissue the CGP for Massachusetts for large and small construction activities at a later date, and will include any state-specific modifications or additions as part of the State's CZMA certification process.

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- A. Region 1
1. MAR100000: Commonwealth of Massachusetts, except Indian country
    - a. State Water Quality Statutes, Regulations, and Policies:
      - i. You must comply with the Massachusetts Clean Waters Act (Ch. 21, ss. 23-56).
      - ii. You must comply with the conditions in 314 CMR 4.00 - Surface Water Quality Standards.
      - iii. You must comply with the conditions in 314 CMR 3.00 - Surface Water Discharge Permit Program.
      - iv. You must comply with the Wetlands Protection Act, Ch. 131, s. 40 and its regulations, 310 CMR 10.00 and any order of Conditions issued by a Conservation Commission or a Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection.
    - b. Department of Environmental Protection Storm Water Management Policy:
      - i. You must comply with the Massachusetts Storm Water Management Policy, March 1997 and applicable Storm Water Performance Standards, as prescribed by state regulations promulgated under the authority of the Massachusetts Clean Waters Act, MGL Ch. 21, ss. 23-56 and the Wetlands Protection Act Ch. 131, s. 40.
    - c. Other State Environmental Laws, Regulations, Policies:
      - i. You must comply with the Massachusetts Endangered Species Act [MESA] (MGL Ch. 313A and regulations at 321 CMR 10.00) and any actions undertaken to comply with this storm water permit, shall not result in non-compliance with the MESA.
      - ii. You must not conduct activities under this permit that will interfere with implementation of mosquito control work conducted in accordance with Chapter 252 including, s. 5A thereunder and DEP Guideline Number BRP G01-02, West Nile Virus Application of Pesticides to Wetland Resource Areas and Buffer Zones, and Public Water Systems.
    - d. Other Department Directives:
      - i. The Department may require you to perform water quality monitoring during the permit term if monitoring is necessary for the protection of public health or the environment as designated under the authority at 314 CMR 3.00.
      - ii. The Department may require you to provide measurable verification of the effectiveness of BMPs and other control measures in your management program, including water quality monitoring.
      - iii. The Department has determined that compliance with this permit does not protect you from enforcement actions deemed necessary by the Department under its associated regulations to address an imminent threat to the public health or a significant adverse environmental impact which results in a violation of the Massachusetts Clean Waters Act, Ch. 21, ss. 26-53.
      - iv. The Department reserves the right to modify the 401 Water Quality Certification if any changes, modifications or deletions are made to the general permit. In addition, the Department reserves the right to add and/or alter the terms and conditions of its 401 Water Quality Certification to carry out its responsibilities during the term of this permit with respect to water quality, including any revisions to 314 CMR 4.00, Surface Water Quality Standards.
    - e. Permit Compliance
      - i. Should any violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or the conditions of this certification occur, the Department will direct you to correct the violations(s). The Department has the right to take any action as authorized by the General Laws of the Commonwealth to address the violation of this permit or the MA Clean Waters Act and the regulations promulgated thereunder. Substantial civil and criminal penalties are authorized under MGL Ch. 21, s. 42 for discharging into Massachusetts' waters in violation of an order or permit issued by this Department. This certification does not relieve the you of the duty to comply with other applicable Massachusetts statutes and regulations.
  2. NHR100000: State of New Hampshire
    - a. If you disturb 100,000 square feet or more of contiguous area, you must also apply for a "Significant Alteration of the Terrain Permit from DES pursuant to RSA 485-A:17 and Env-Ws 415. This requirement

applies to the disturbances of only 50,000 square feet when construction occurs within the protected shoreline (see RSA 483-B and Env-Ws 1400).

- b. You must determine that any excavation dewatering discharges are not contaminated before they will be authorized as an allowable non-storm water discharge under this permit (see Subpart 1.3.B). The water is considered uncontaminated if there is no groundwater contamination within 1,000 feet of the discharge. Information on groundwater contamination can be generated over the Internet via the NHDES web site [www.des.state.nh.us](http://www.des.state.nh.us) (One Stop Data Retrieval, Onestop Master Site Table). The web site also provides E-mail access to an NHDES Site Remediation Contact to answer questions about using the Web site.
- c. You must treat any uncontaminated excavation dewatering discharges as necessary to remove suspended solids and turbidity. The discharges must be sampled at a location prior to mixing with storm water at least once per week during weeks when discharges occur. The samples must be analyzed for total suspended solids (TSS) and must meet monthly average and maximum daily TSS limitations of 50 milligrams per liter (mg/L) and 100 mg/L, respectively. TSS (a.k.a. Residue, Nonfilterable) analysis and sampling must be performed in accordance with Tables IB (parameter, units and method) and II (required containers, preservation techniques and holding times) in 40 CFR 136.3 (see: [http://www.access.gpo.gov/nara/cfr/waisidx\\_02/40cfr136\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/40cfr136_02.html)). Records of any sampling and analysis must be maintained and kept with the SWPPP for at least three years after final site stabilization.
- d. During site design and preparation of the storm water pollution prevention plan (SWPPP), you must consider opportunities for groundwater recharge using on-site infiltration. The SWPPP must include a description of any on-site infiltration that will be installed as a post construction storm water management measure (see Subpart 3.4.E) or reasons for not employing such measures. For design considerations for infiltration measures see the September 2001 DES publication titled "Managing Storm Water as a Valuable Resource" which is available online at: [www.des.state.nh.us/StormWater/construction.htm](http://www.des.state.nh.us/StormWater/construction.htm). Loss of annual recharge to groundwater should be minimized through the use of infiltration measures wherever feasible.

#### B. Region 2

##### 1. NYR100001: Indian country within the State of New York

St. Regis Mohawk Territory at Akwesasne

- a. NOIs shall also be submitted to the St. Regis Mohawk Tribe, Environment Division, at the same time they are submitted to EPA, at the following address:  
 St. Regis Mohawk Tribe, Environment Division  
 412 State Route 37  
 Akwesasne, NY 13655  
 Attn: Clean Water Program Manager.
- b. In addition, Storm Water Pollution Prevention Plans (and any updates or amendments thereto) must be submitted to the Environment Division and to the Tribal Historic Preservation Officer at least thirty (30) days in advance of corresponding Notices of Intent. This will allow the Environment Division and the THPO to make an informed determination as to whether any proposed discharges might adversely impact the quality of its surface or groundwater, or disturb sites of historic or cultural significance to the Tribe that may be listed, or eligible to be listed, on the National Register of Historic Places.
- c. Within 10 days of the inspection required under Subpart 3.10.G of this permit, the permittee shall provide a copy of the Inspection Report to the Environment Division.

#### C. Region 6

##### 1. NMR150000: The State of New Mexico, except Indian country

*NOTE: Conditions in the New Mexico Environment Department (NMED) certification of the permit resulted in permit requirements adding further restrictions on eligibility for discharges to Outstanding National Resource Waters (ONRWs), expanding on requirements for pollution prevention plans, and limiting options provided in the permit related to inspection frequency and final stabilization.*

- a. In addition to all other provisions of this permit, operators who intend to obtain authorization under this permit for all new storm water discharges must satisfy the conditions in Subpart 9.C.1.a.i, unless a TMDL has been established for the receiving stream which specifies a waste load allocation (WLA) for