

**National Pollutant Discharge Elimination System  
General Permit for Discharges from  
Construction Activities  
(as modified)**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA), as amended by the Water Quality Act of 1987, P.L. 100-4, "operators" of construction activities (defined in Appendix A) that meet the requirements of Part 1.1 of this National Pollutant Discharge Elimination System (NPDES) general permit, are authorized to discharge pollutants in accordance with the effluent limitations and conditions set forth herein. Permit coverage is required from the "commencement of construction activities" (see Appendix A) until one of the conditions for terminating CGP coverage has been met (see Part 8.2).

This permit becomes effective on **June 27, 2019**.

This permit and the authorization to discharge expire at 11:59pm, **February 16, 2022**.

Signed and issued this 14th day of May 2019  
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## **1 HOW TO OBTAIN COVERAGE UNDER THE CONSTRUCTION GENERAL PERMIT (CGP)**

To be covered under this permit, you must meet the eligibility conditions and follow the requirements for obtaining permit coverage in this Part.

### **1.1 ELIGIBILITY CONDITIONS**

**1.1.1** You are an “operator” of a construction site for which discharges will be covered under this permit. For the purposes of this permit and in the context of stormwater discharges associated with construction activity, an “operator” is any party associated with a construction project that meets either of the following two criteria:

- a. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- b. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions.

Where there are multiple operators associated with the same project, all operators must obtain permit coverage.<sup>1</sup> Subcontractors generally are not considered operators for the purposes of this permit.

**1.1.2** Your site's construction activities:

- a. Will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land; or
- b. Have been designated by EPA as needing permit coverage under 40 CFR 122.26(a)(1)(v) or 40 CFR 122.26(b)(15)(ii);

**1.1.3** Your site is located in an area where EPA is the permitting authority (see Appendix B);

**1.1.4** Discharges from your site are not:

- a. Already covered by a different NPDES permit for the same discharge; or
- b. In the process of having coverage under a different NPDES permit for the same discharge denied, terminated, or revoked.<sup>2, 3</sup>

**1.1.5** You are able to demonstrate that you meet one of the criteria listed in Appendix D with respect to the protection of species that are federally listed as endangered or threatened under the Endangered Species Act (ESA) and federally designated critical habitat;

**1.1.6** You have completed the screening process in Appendix E relating to the protection of historic properties; and

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<sup>1</sup> If the operator of a “construction support activity” (see Part 1.2.1c) is different than the operator of the main site, that operator must also obtain permit coverage. See Part 7.1 for clarification on the sharing of permit-related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

<sup>2</sup> Parts 1.1.4a and 1.1.4b do not include sites currently covered under the 2012 CGP that are in the process of obtaining coverage under this permit, nor sites covered under this permit that are transferring coverage to a different operator.

<sup>3</sup> Notwithstanding a site being made ineligible for coverage under this permit because it falls under the description of Parts 1.1.4a or 1.1.4b, above, EPA may waive the applicable eligibility requirement after specific review if it determines that coverage under this permit is appropriate.

- 1.1.7** You have complied with all requirements in Part 9 imposed by the applicable state, Indian tribe, or territory in which your construction activities and/or discharge will occur.
- 1.1.8** For “new sources” (as defined in Appendix A) only:
- a. EPA has not, prior to authorization under this permit, determined that discharges from your site 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. However, EPA may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharge into compliance with this permit, specifically the requirement to meet water quality standards. In the absence of information demonstrating otherwise, EPA expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part 3, will result in discharges that will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard.
  - b. Discharges from your site to a Tier 2, Tier 2.5, or Tier 3 water<sup>4</sup> will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, EPA expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Part 3.2, will result in discharges that will not lower the water quality of such waters.
- 1.1.9** If you plan to add “cationic treatment chemicals” (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, you may not submit your Notice of Intent (NOI) unless and until you notify your applicable EPA Regional Office (see Appendix L) in advance and the EPA Regional Office authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to discharges that cause an exceedance of water quality standards.

## **1.2 TYPES OF DISCHARGES AUTHORIZED<sup>5</sup>**

- 1.2.1** The following stormwater discharges are authorized under this permit provided that appropriate stormwater controls are designed, installed, and maintained (see Parts 2 and 3):
- a. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity under 40 CFR 122.26(b)(14) or 122.26(b)(15)(i);
  - b. Stormwater discharges designated by EPA as needing a permit under 40 CFR 122.26(a)(1)(v) or 122.26(b)(15)(ii);

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<sup>4</sup> Note: Your site will be considered to discharge to a Tier 2, Tier 2.5, or Tier 3 water if the first water to which you discharge is identified by a state, tribe, or EPA as a Tier 2, Tier 2.5, or Tier 3 water. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system. See list of Tier 2, Tier 2.5, and Tier 3 waters in Appendix F.

<sup>5</sup> See “Discharge” as defined in Appendix A. Note: Any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, state, or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the SWPPP, or during an inspection.

- c. Stormwater discharges from construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided that:
  - i. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges;
  - ii. The support activity is not a commercial operation, nor does it serve multiple unrelated construction sites;
  - iii. The support activity does not continue to operate beyond the completion of the construction activity at the site it supports; and
  - iv. Stormwater controls are implemented in accordance with Part 2 and Part 3 for discharges from the support activity areas.
- d. Stormwater discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining.

**1.2.2** The following non-stormwater discharges associated with your construction activity are authorized under this permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Parts 2 and 3:

- a. Discharges from emergency fire-fighting activities;
- b. Fire hydrant flushings;
- c. Landscape irrigation;
- d. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
- e. Water used to control dust;
- f. Potable water including uncontaminated water line flushings;
- g. External building washdown, provided soaps, solvents, and detergents are not used, and external surfaces do not contain hazardous substances (as defined in Appendix A) (e.g., paint or caulk containing polychlorinated biphenyls (PCBs));
- h. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. You are prohibited from directing pavement wash waters directly into any water of the U.S., storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- i. Uncontaminated air conditioning or compressor condensate;
- j. Uncontaminated, non-turbid discharges of ground water or spring water;
- k. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and
- l. Construction dewatering water discharged in accordance with Part 2.4.

**1.2.3** Also authorized under this permit are discharges of stormwater listed above in Part 1.2.1, or authorized non-stormwater discharges listed above in Part 1.2.2, commingled with a

discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

### **1.3 PROHIBITED DISCHARGES<sup>6</sup>**

- 1.3.1** Wastewater from washout of concrete, unless managed by an appropriate control as described in Part 2.3.4;
- 1.3.2** Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
- 1.3.3** Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- 1.3.4** Soaps, solvents, or detergents used in vehicle and equipment washing or external building washdown; and
- 1.3.5** Toxic or hazardous substances from a spill or other release.

To prevent the above-listed prohibited non-stormwater discharges, operators must comply with the applicable pollution prevention requirements in Part 2.3.

### **1.4 SUBMITTING YOUR NOTICE OF INTENT (NOI)**

All “operators” (as defined in Appendix A) associated with your construction site, who meet the Part 1.1 eligibility requirements, and who seek coverage under this permit, must submit to EPA a complete and accurate NOI in accordance with the deadlines in **Table 1** prior to commencing construction activities.

**Exception:** If you are conducting construction activities in response to a public emergency (e.g., *mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services*), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, you may discharge on the condition that a complete and accurate NOI is submitted within 30 calendar days after commencing construction activities (see Table 1) establishing that you are eligible for coverage under this permit. You must also provide documentation in your Stormwater Pollution Prevention Plan (SWPPP) to substantiate the occurrence of the public emergency.

#### **1.4.1 Prerequisite for Submitting Your NOI**

You must develop a SWPPP consistent with Part 7 before submitting your NOI for coverage under this permit.

#### **1.4.2 How to Submit Your NOI**

You must use EPA's NPDES eReporting Tool (NeT) to electronically prepare and submit your NOI for coverage under the 2017 CGP, unless you received a waiver from your EPA Regional Office.

To access NeT, go to <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>.

Waivers from electronic reporting may be granted based on one of the following conditions:

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<sup>6</sup> EPA includes these prohibited non-stormwater discharges here as a reminder to the operator that the only non-stormwater discharges authorized by this permit are at Part 1.2.2. Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit.

- a. If your operational headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or
- b. If you have limitations regarding available computer access or computer capability.

If the EPA Regional Office grants you approval to use a paper NOI, and you elect to use it, you must complete the form in Appendix J.

**1.4.3 Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage**

Table 1 provides the deadlines for submitting your NOI and the official start date of your permit coverage, which differ depending on when you commence construction activities.

**Table 1 NOI Submittal Deadlines and Official Start Date for Permit Coverage.**

Type of Operator	NOI Submittal Deadline <sup>7</sup>	Permit Authorization Date <sup>8</sup>
<b>Operator of a new site</b> (i.e., a site where construction activities commence on or after February 16, 2017)	At least 14 calendar days before commencing construction activities.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
<b>Operator of an existing site</b> (i.e., a site with 2012 CGP coverage where construction activities commenced prior to February 16, 2017)	No later than <b>May 17, 2017</b> .	
<b>New operator of a permitted site</b> (i.e., an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or an "existing site")	At least 14 calendar days before the date the transfer to the new operator will take place.	
<b>Operator of an "emergency-related project"</b> (i.e., a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services)	No later than 30 calendar days after commencing construction activities.	You are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered 14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.

**1.4.4 Modifying your NOI**

<sup>7</sup> If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. EPA may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

<sup>8</sup> Discharges are not authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage.



If after submitting your NOI you need to correct or update any fields, you may do so by submitting a "Change NOI" form using NeT. Waivers from electronic reporting may be granted as specified in Part 1.4.1. If the EPA Regional Office has granted you approval to submit a paper NOI modification, you may indicate any NOI changes on the same NOI form in Appendix J.

When there is a change to the site's operator, the new operator must submit a new NOI, and the previous operator must submit a Notice of Termination (NOT) form as specified in Part 8.3.

#### **1.4.5 Your Official End Date of Permit Coverage**

Once covered under this permit, your coverage will last until the date that:

- a. You terminate permit coverage consistent with Part 8; or
- b. You receive permit coverage under a different NPDES permit or a reissued or replacement version of this permit after expiring on February 16, 2022; or
- c. You fail to submit an NOI for coverage under a revised or replacement version of this permit before the deadline for existing construction sites where construction activities continue after this permit has expired.

#### **1.5 REQUIREMENT TO POST A NOTICE OF YOUR PERMIT COVERAGE**

You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way.<sup>9</sup> At a minimum, the notice must include:

- a. The NPDES ID (*i.e.*, *permit tracking number assigned to your NOI*);
- b. A contact name and phone number for obtaining additional construction site information;
- c. The Uniform Resource Locator (URL) for the SWPPP (if available), or the following statement: "If you would like to obtain a copy of the Stormwater Pollution Prevention Plan (SWPPP) for this site, contact the EPA Regional Office at [*include the appropriate CGP Regional Office contact information found at <https://www.epa.gov/npdes/contact-us-stormwater#regional>*];" and
- d. The following statement "If you observe indicators of stormwater pollutants in the discharge or in the receiving waterbody, contact the EPA through the following website: <https://www.epa.gov/enforcement/report-environmental-violations>."

### **2 TECHNOLOGY-BASED EFFLUENT LIMITATIONS**

You must comply with the following technology-based effluent limitations in this Part for all authorized discharges.<sup>10</sup>

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<sup>9</sup> If the active part of the construction site is not visible from a public road, then place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

<sup>10</sup> For each of the effluent limits in Part 2, as applicable to your site, you must include in your SWPPP (1) a description of the specific control(s) to be implemented to meet the effluent limit; (2) any applicable design specifications; (3) routine maintenance specifications; and (4) the projected schedule for its (their)

## **2.1 GENERAL STORMWATER CONTROL DESIGN, INSTALLATION, AND MAINTENANCE REQUIREMENTS**

You must design, install, and maintain stormwater controls required in Parts 2.2 and 2.3 to minimize the discharge of pollutants in stormwater from construction activities. To meet this requirement, you must:

### **2.1.1 Account for the following factors in designing your stormwater controls:**

- a. The expected amount, frequency, intensity, and duration of precipitation;
- b. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. You must design stormwater controls to control stormwater volume, velocity, and peak flow rates to minimize discharges of pollutants in stormwater and to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points; and
- c. The soil type and range of soil particle sizes expected to be present on the site.

### **2.1.2 Design and install all stormwater controls in accordance with good engineering practices, including applicable design specifications.<sup>11</sup>**

### **2.1.3 Complete installation of stormwater controls by the time each phase of construction activities has begun.**

- a. By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (*e.g., buffers, perimeter controls, exit point controls, storm drain inlet protection*) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.<sup>12</sup>
- b. Following the installation of these initial controls, install and make operational all stormwater controls needed to control discharges prior to subsequent earth-disturbing activities.

### **2.1.4 Ensure that all stormwater controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.**

- a. Comply with any specific maintenance requirements for the stormwater controls listed in this permit, as well as any recommended by the manufacturer.<sup>13</sup>
- b. If at any time you find that a stormwater control needs routine maintenance, you must immediately initiate the needed maintenance work, and complete such work by the close of the next business day.

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installation/implementation. See Part 7.2.6.

<sup>11</sup> Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practices and must be explained in your SWPPP. You must also comply with any additional design and installation requirements specified for the effluent limits in Parts 2.2 and 2.3.

<sup>12</sup> Note that the requirement to install stormwater controls prior to each phase of construction activities for the site does not apply to the earth disturbance associated with the actual installation of these controls. Operators should take all reasonable actions to minimize the discharges of pollutants during the installation of stormwater controls.

<sup>13</sup> Any departures from such maintenance recommendations made by the manufacturer must reflect good engineering practices and must be explained in your SWPPP.

- c. If at any time you find that a stormwater control needs repair or replacement, you must comply with the corrective action requirements in Part 5.

## **2.2 EROSION AND SEDIMENT CONTROL REQUIREMENTS**

You must implement erosion and sediment controls in accordance with the following requirements to minimize the discharge of pollutants in stormwater from construction activities.

### **2.2.1 Provide and maintain natural buffers and/or equivalent erosion and sediment controls when a water of the U.S. is located within 50 feet of the site's earth disturbances.**

- a. **Compliance Alternatives.** For any discharges to waters of the U.S. located within 50 feet of your site's earth disturbances, you must comply with one of the following alternatives:
  - i. Provide and maintain a 50-foot undisturbed natural buffer; or
  - ii. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve, in combination, the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
  - iii. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.

See Appendix G, Part G.2 for additional conditions applicable to each compliance alternative.

- b. **Exceptions.** See Appendix G, Part G.2 for exceptions to the compliance alternatives.

### **2.2.2 Direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infeasible.**

### **2.2.3 Install sediment controls along any perimeter areas of the site that will receive pollutant discharges.<sup>14</sup>**

- a. Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control.
- b. **Exception.** For areas at "linear construction sites" (as defined in Appendix A) where perimeter controls are infeasible (*e.g., due to a limited or restricted right-of-way*), implement other practices as necessary to minimize pollutant discharges to perimeter areas of the site.

### **2.2.4 Minimize sediment track-out.**

- a. Restrict vehicle use to properly designated exit points;
- b. Use appropriate stabilization techniques<sup>15</sup> at all points that exit onto paved roads.

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<sup>14</sup> Examples of perimeter controls include filter berms, silt fences, vegetative strips, and temporary diversion dikes.

<sup>15</sup> Examples of appropriate stabilization techniques include the use of aggregate stone with an underlying geotextile or non-woven filter fabric, and turf mats.

- i. **Exception:** Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls<sup>16</sup> are implemented to minimize sediment track-out;
- c. Implement additional track-out controls<sup>17</sup> as necessary to ensure that sediment removal occurs prior to vehicle exit; and
- d. Where sediment has been tracked-out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment into any stormwater conveyance, storm drain inlet, or water of the U.S.<sup>18</sup>

**2.2.5 Manage stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil:**

- a. Locate the piles outside of any natural buffers established under Part 2.2.1 and away from any stormwater conveyances, drain inlets, and areas where stormwater flow is concentrated;
- b. Install a sediment barrier along all downgradient perimeter areas;<sup>19</sup>
- c. For piles that will be unused for 14 or more days, provide cover<sup>20</sup> or appropriate temporary stabilization (consistent with Part 2.2.14);
- d. You are prohibited from hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or water of the U.S.

**2.2.6 Minimize dust.** On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in stormwater from the site.

**2.2.7 Minimize steep slope disturbances.** Minimize the disturbance of “steep slopes” (as defined in Appendix A).

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<sup>16</sup> Examples of other exit point controls include preventing the use of exit points during wet periods; minimizing exit point use by keeping vehicles on site to the extent possible; limiting exit point size to the width needed for vehicle and equipment usage; using scarifying and compaction techniques on the soil; and avoiding establishing exit points in environmentally sensitive areas (e.g., karst areas; steep slopes).

<sup>17</sup> Examples of additional track-out controls include the use of wheel washing, rumble strips, and rattle plates.

<sup>18</sup> Fine grains that remain visible (*i.e.*, staining) on the surfaces of off-site streets, other paved areas, and sidewalks after you have implemented sediment removal practices are not a violation of Part 2.2.4.

<sup>19</sup> Examples of sediment barriers include berms, dikes, fiber rolls, silt fences, sandbags, gravel bags, or straw bale.

<sup>20</sup> Examples of cover include tarps, blown straw and hydroseeding.

**2.2.8 Preserve native topsoil, unless infeasible.<sup>21</sup>**

**2.2.9 Minimize soil compaction.<sup>22</sup>** In areas of your site where final vegetative stabilization will occur or where infiltration practices will be installed:

- a. Restrict vehicle and equipment use in these locations to avoid soil compaction; and
- b. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth.

**2.2.10 Protect storm drain inlets.**

- a. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that carries stormwater flow from your site to a water of the U.S., provided you have authority to access the storm drain inlet;<sup>23</sup> and
- b. Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

**2.2.11 Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.<sup>24</sup>**

**2.2.12 If you install a sediment basin or similar impoundment:**

- a. Situate the basin or impoundment outside of any water of the U.S. and any natural buffers established under Part 2.2.1;
- b. Design the basin or impoundment to avoid collecting water from wetlands;
- c. Design the basin or impoundment to provide storage for either:
  - i. The calculated volume of runoff from a 2-year, 24-hour storm (see Appendix H); or
  - ii. 3,600 cubic feet per acre drained.

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<sup>21</sup> Stockpiling topsoil at off-site locations, or transferring topsoil to other locations, is an example of a practice that is consistent with the requirements in Part 2.2.8. Preserving native topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed. For example, some sites may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain, or may not have space to stockpile native topsoil on site for later use, in which case, it may not be feasible to preserve topsoil.

<sup>22</sup> Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.

<sup>23</sup> Inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

<sup>24</sup> Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of a stormwater conveyance and at the outfall to slow down runoff.

- d. Utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;<sup>25</sup>
- e. Use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and
- f. Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure the basin or impoundment remains in effective operating condition.

**2.2.13 If using treatment chemicals (e.g., polymers, flocculants, coagulants):**

- a. **Use conventional erosion and sediment controls before and after the application of treatment chemicals.** Chemicals may only be applied where treated stormwater is directed to a sediment control (e.g., *sediment basin, perimeter control*) before discharge.
- b. **Select appropriate treatment chemicals.** Chemicals must be appropriately suited to the types of soils likely to be exposed during construction and present in the discharges being treated (i.e., *the expected turbidity, pH, and flow rate of stormwater flowing into the chemical treatment system or area*).
- c. **Minimize discharge risk from stored chemicals.** Store all treatment chemicals in leak-proof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (e.g., *spill berms, decks, spill containment pallets*), or provide equivalent measures designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means (e.g., *storing chemicals in a covered area, having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill*).
- d. **Comply with state/local requirements.** Comply with applicable state and local requirements regarding the use of treatment chemicals.
- e. **Use chemicals in accordance with good engineering practices and specifications of the chemical provider/supplier.** Use treatment chemicals and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals, or document in your SWPPP specific departures from these specifications and how they reflect good engineering practice.
- f. **Ensure proper training.** Ensure that all persons who handle and use treatment chemicals at the construction site are provided with appropriate, product-specific training. Among other things, the training must cover proper dosing requirements.
- g. **Perform additional measures specified by the EPA Regional Office for the authorized use of cationic chemicals.** If you have been authorized to use cationic chemicals at your site pursuant to Part 1.1.9, you must perform all additional measures as conditioned by your authorization to ensure that the use of such chemicals will not cause an exceedance of water quality standards.

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<sup>25</sup> The circumstances in which it is infeasible to design outlet structures in this manner are rare. Exceptions may include areas with extended cold weather, where using surface outlets may not be feasible during certain time periods (although they must be used during other periods). If you determine that it is infeasible to meet this requirement, you must provide documentation in your SWPPP to support your determination, including the specific conditions or time periods when this exception will apply.

**2.2.14 Stabilize exposed portions of the site.** Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel) that minimize erosion from exposed portions of the site in accordance with Parts 2.2.14a and 2.2.14b.

**a. Stabilization Deadlines:<sup>26</sup>**

Total Amount of Land Disturbance Occurring At Any One Time <sup>27</sup>	Deadline
<p>i. <b>Five acres or less (≤5.0)</b></p> <p><b>Note: this includes sites disturbing more than five acres (&gt;5.0) total over the course of a project, but that limit disturbance at any one time (i.e., phase the disturbance) to five acres or less (≤5.0)</b></p>	<ul style="list-style-type: none"> <li>• Initiate the installation of stabilization measures immediately<sup>28</sup> in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days;<sup>29</sup> and</li> <li>• Complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated.<sup>30</sup></li> </ul>

<sup>26</sup> EPA may determine, based on an inspection carried out under Part 4.8 and corrective actions required under Part 5.3, that the level of sediment discharge on the site makes it necessary to require a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing stormwater controls, EPA may require stabilization to correct this problem.

<sup>27</sup> Limiting disturbances to five (5) acres or less at any one time means that at no time during the project do the cumulative earth disturbances exceed five (5) acres. The following examples would qualify as limiting disturbances at any one time to five (5) acres or less:

1. The total area of disturbance for a project is five (5) acres or less.
2. The total area of disturbance for a project will exceed five (5) acres, but the operator ensures that no more than five (5) acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to “free up” land that can be disturbed without exceeding the five (5)-acre cap to qualify for the 14-day stabilization deadline. For instance, if an operator completes stabilization of two (2) acres of land on a five (5)-acre disturbance, then two (2) additional acres could be disturbed while still qualifying for the longer 14-day stabilization deadline.

<sup>28</sup> The following are examples of activities that would constitute the immediate initiation of stabilization:

1. Prepping the soil for vegetative or non-vegetative stabilization as long as seeding, planting, and/or installation of non-vegetative stabilization products takes place as soon as practicable, but no later than one (1) calendar day of completing soil preparation;
2. Applying mulch or other non-vegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the activities in # 1 – 3 on a portion of the entire area that will be stabilized; and
5. Finalizing arrangements to have stabilization product fully installed in compliance with the deadlines for completing stabilization.

<sup>29</sup> The requirement to initiate stabilization immediately is triggered as soon as you know that construction work on a portion of the site is temporarily ceased and will not resume for 14 or more days, or as soon as you know that construction work is permanently ceased. In the context of this provision, “immediately” means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.

<sup>30</sup> If vegetative stabilization measures are being implemented, stabilization is considered “installed” when all activities necessary to seed or plant the area are completed. If non-vegetative stabilization measures are being implemented, stabilization is considered “installed” when all such measures are implemented or applied.

ii. <b>More than five acres (&gt;5.0)</b>	<ul style="list-style-type: none"> <li>• Initiate the installation of stabilization measures immediately<sup>31</sup> in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days;<sup>32</sup> and</li> <li>• Complete the installation of stabilization measures as soon as practicable, but no later than seven (7) calendar days after stabilization has been initiated.<sup>33</sup></li> </ul>
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iii. **Exceptions:**

**(a) Arid, semi-arid, and drought-stricken areas** (as defined in Appendix A). If it is the seasonally dry period or a period in which drought is occurring, and vegetative stabilization measures are being used:

- (i) Immediately initiate and, within 14 calendar days of a temporary or permanent cessation of work in any portion of your site, complete the installation of temporary non-vegetative stabilization measures to the extent necessary to prevent erosion;
- (ii) As soon as practicable, given conditions or circumstances on the site, complete all activities necessary to seed or plant the area to be stabilized; and
- (iii) If construction is occurring during the seasonally dry period, indicate in your SWPPP the beginning and ending dates of the seasonally dry period and your site conditions. Also include the schedule you will follow for initiating and completing vegetative stabilization.

**(b) Operators that are affected by unforeseen circumstances<sup>34</sup> that delay the initiation and/or completion of vegetative stabilization:**

- (i) Immediately initiate and, within 14 calendar days, complete the installation of temporary non-vegetative stabilization measures to prevent erosion;
- (ii) Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on your site; and
- (iii) Document in the SWPPP the circumstances that prevent you from meeting the deadlines in Part 2.2.14a and the schedule you will follow for initiating and completing stabilization.

**(c) Discharges to a sediment- or nutrient-impaired water or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes.** Complete stabilization as soon as

<sup>31</sup> See footnote 27

<sup>32</sup> See footnote 28

<sup>33</sup> See footnote 29

<sup>34</sup> Examples include problems with the supply of seed stock or with the availability of specialized equipment and unsuitability of soil conditions due to excessive precipitation and/or flooding.



practicable, but no later than seven (7) calendar days after stabilization has been initiated.

b. **Final Stabilization Criteria** (for any areas not covered by permanent structures):

- i. Establish uniform, perennial vegetation (*i.e.*, *evenly distributed, without large bare areas*) that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas; and/or
- ii. Implement permanent non-vegetative stabilization measures<sup>35</sup> to provide effective cover.

iii. **Exceptions:**

- (a) **Arid, semi-arid, and drought-stricken areas** (as defined in Appendix A). Final stabilization is met if the area has been seeded or planted to establish vegetation that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas within three (3) years and, to the extent necessary to prevent erosion on the seeded or planted area, non-vegetative erosion controls have been applied that provide cover for at least three years without active maintenance.
- (b) **Disturbed areas on agricultural land that are restored to their preconstruction agricultural use.** The Part 2.2.14b final stabilization criteria does not apply.
- (c) **Areas that need to remain disturbed.** In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (*e.g.*, *dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials*).

## 2.3 POLLUTION PREVENTION REQUIREMENTS<sup>36</sup>

You must implement pollution prevention controls in accordance with the following requirements to minimize the discharge of pollutants in stormwater and to prevent the discharge of pollutants from spilled or leaked materials from construction activities.

### 2.3.1 For equipment and vehicle fueling and maintenance:

- a. Provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuels and oils, from these activities;<sup>37</sup>

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<sup>35</sup> Examples of permanent non-vegetative stabilization measures include riprap, gravel, gabions, and geotextiles.

<sup>36</sup> Under this permit, you are not required to minimize exposure for any products or materials where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

<sup>37</sup> Examples of effective means include:

- Locating activities away from waters of the U.S. and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach waters of the U.S.;
- Providing secondary containment (*e.g.*, *spill berms, decks, spill containment pallets*) and cover where appropriate; and
- Having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

- b. If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR part 112 and Section 311 of the CWA;
- c. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;
- d. Use drip pans and absorbents under or around leaky vehicles;
- e. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements; and
- f. Clean up spills or contaminated surfaces immediately, using dry clean up measures (do not clean contaminated surfaces by hosing the area down), and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

**2.3.2 For equipment and vehicle washing:**

- a. Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of wash waters;<sup>38</sup>
- b. Ensure there is no discharge of soaps, solvents, or detergents in equipment and vehicle wash water; and
- c. For storage of soaps, detergents, or solvents, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.

**2.3.3 For storage, handling, and disposal of building products, materials, and wastes:**

- a. For building materials and building products<sup>39</sup>, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.

Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).

- b. For pesticides, herbicides, insecticides, fertilizers, and landscape materials:
  - i. In storage areas, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these chemicals to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas; and
  - ii. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label (see also Part 2.3.5).
- c. For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:

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<sup>38</sup> Examples of effective means include locating activities away from waters of the U.S. and stormwater inlets or conveyances and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls.

<sup>39</sup> Examples of building materials and building products typically present at construction sites include asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures, and gravel and mulch stockpiles.

- i. Store chemicals in water-tight containers, and provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas (e.g., having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill), or provide secondary containment (e.g., spill berms, decks, spill containment pallets); and
  - ii. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.
- d. *For hazardous or toxic wastes:*<sup>40</sup>
- i. Separate hazardous or toxic waste from construction and domestic waste;
  - ii. Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, tribal, or local requirements;
  - iii. Store all outside containers within appropriately-sized secondary containment (e.g., spill berms, decks, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in a covered area, having a spill kit available on site);
  - iv. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal, state, tribal, and local requirements;
  - v. Clean up spills immediately, using dry clean-up methods, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and
  - vi. Follow all other federal, state, tribal, and local requirements regarding hazardous or toxic waste.
- e. *For construction and domestic wastes:*<sup>41</sup>
- i. Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes;
  - ii. Keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation,

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<sup>40</sup> Examples of hazardous or toxic waste that may be present at construction sites include paints, caulks, sealants, fluorescent light ballasts, solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids.

<sup>41</sup> Examples of construction and domestic waste include packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, styrofoam, concrete, demolition debris; and other trash or building materials.

- or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);
- iii. On business days, clean up and dispose of waste in designated waste containers; and
- iv. Clean up immediately if containers overflow.
- f. For sanitary waste, position portable toilets so that they are secure and will not be tipped or knocked over, and located away from waters of the U.S. and stormwater inlets or conveyances.

**2.3.4 For washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials:**

- a. Direct wash water into a leak-proof container or leak-proof and lined pit designed so that no overflows can occur due to inadequate sizing or precipitation;
- b. Handle washout or cleanout wastes as follows:
  - i. Do not dump liquid wastes in storm sewers or waters of the U.S.;
  - ii. Dispose of liquid wastes in accordance with applicable requirements in Part 2.3.3; and
  - iii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part 2.3.3; and
- c. Locate any washout or cleanout activities as far away as possible from waters of the U.S. and stormwater inlets or conveyances, and, to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.

**2.3.5 For the application of fertilizers:**

- a. Apply at a rate and in amounts consistent with manufacturer's specifications, or document in the SWPPP departures from the manufacturer specifications where appropriate in accordance with Part 7.2.6.b.ix;
- b. Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- c. Avoid applying before heavy rains that could cause excess nutrients to be discharged;
- d. Never apply to frozen ground;
- e. Never apply to stormwater conveyance channels; and
- f. Follow all other federal, state, tribal, and local requirements regarding fertilizer application.

**2.3.6 Emergency Spill Notification Requirements**

Discharges of toxic or hazardous substances from a spill or other release are prohibited, consistent with Part 1.3.5. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302 occurs during a 24-hour period, you must notify the National Response Center (NRC) at (800) 424-8802 or, in the Washington, DC metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302 as soon as you have knowledge of the release. You must also, within seven (7) calendar days of knowledge of the release, provide a

description of the release, the circumstances leading to the release, and the date of the release. State, tribal, or local requirements may necessitate additional reporting of spills or discharges to local emergency response, public health, or drinking water supply agencies.

## **2.4 CONSTRUCTION DEWATERING REQUIREMENTS**

Comply with the following requirements to minimize the discharge of pollutants in ground water or accumulated stormwater that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation, in accordance with Part 1.2.2.<sup>42</sup>

- 2.4.1** Treat dewatering discharges with controls to minimize discharges of pollutants;<sup>43</sup>
- 2.4.2** Do not discharge visible floating solids or foam;
- 2.4.3** Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;
- 2.4.4** To the extent feasible, use vegetated, upland areas of the site to infiltrate dewatering water before discharge. You are prohibited from using waters of the U.S. as part of the treatment area;
- 2.4.5** At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.2.11;
- 2.4.6** With backwash water, either haul it away for disposal or return it to the beginning of the treatment process; and
- 2.4.7** Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.

## **3 WATER QUALITY-BASED EFFLUENT LIMITATIONS**

### **3.1 GENERAL EFFLUENT LIMITATION TO MEET APPLICABLE WATER QUALITY STANDARDS**

Discharges must be controlled as necessary to meet applicable water quality standards. Discharges must also comply with any additional state or tribal requirements that are in Part 9.

In the absence of information demonstrating otherwise, EPA expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time you become aware, or EPA determines, that discharges are not being controlled as necessary to meet applicable water quality standards, you must take corrective action as required in Parts 5.1 and 5.2, and document the corrective actions as required in Part 5.4.

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<sup>42</sup> Uncontaminated, clear (non-turbid) dewatering water can be discharged without being routed to a control.

<sup>43</sup> Appropriate controls include sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, filtration systems (e.g., *bag or sand filters*), and passive treatment systems that are designed to remove sediment. Appropriate controls to use downstream of dewatering controls to minimize erosion include vegetated buffers, check dams, riprap, and grouted riprap at outlets.

EPA may insist that you install additional controls (to meet the narrative water quality-based effluent limit above) on a site-specific basis, or require you to obtain coverage under an individual permit, if information in your NOI or from other sources indicates that your discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in an EPA-established or approved TMDL.

If during your coverage under a previous permit, you were required to install and maintain stormwater controls specifically to meet the assumptions and requirements of an EPA-approved or established TMDL (for any parameter) or to otherwise control your discharge to meet water quality standards, you must continue to implement such controls as part of your coverage under this permit.

### 3.2 DISCHARGE LIMITATIONS FOR SITES DISCHARGING TO SENSITIVE WATERS<sup>44</sup>

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes, you must comply with the inspection frequency specified in 4.3 and you must comply with the stabilization deadline specified in Part 2.2.14.a.iii.(c).<sup>45</sup>

If you discharge to a water that is impaired for a parameter other than a sediment-related parameter or nutrients, EPA will inform you if any additional controls are necessary for your discharge to be controlled as necessary to meet water quality standards, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is necessary.

In addition, on a case-by-case basis, EPA may notify operators of new sites or operators of existing sites with increased discharges that additional analyses, stormwater controls, or other measures are necessary to comply with the applicable

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<sup>44</sup> Sensitive waters include waters that are impaired and Tier 2, Tier 2.5, and Tier 3 waters.

"Impaired waters" are those waters identified by the state, tribe, or EPA as not meeting an applicable water quality standard and (1) requires development of a TMDL (pursuant to section 303(d) of the CWA; or (2) is addressed by an EPA-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR 130.7(b)(1). Your construction site will be considered to discharge to an impaired water if the first water of the U.S. to which you discharge is an impaired water for the pollutants contained in the discharge from your site. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system. For assistance in determining whether your site discharges to impaired waters, EPA has developed a tool that is available both within the electronic NOI form in NeT, and at <https://water.epa.gov/polwaste/npdes/stormwater/discharge.cfm>.

Tiers 2, 2.5 and 3 refer to waters either identified by the state as high quality waters or Outstanding National Resource Waters under 40 CFR 131.12(a)(2) and (3). For the purposes of this permit, you are considered to discharge to a Tier 2, Tier 2.5, or Tier 3 water if the first water of the U.S. to which you discharge is identified by a state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3. For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first water of the U.S. that receives the stormwater discharge from the storm sewer system. See list of Tier 2, Tier 2.5, and Tier 3 waters in Appendix F.

EPA may determine on a case-by-case basis that a site discharges to a sensitive water.

<sup>45</sup> If you qualify for any of the reduced inspection frequencies in Part 4.4, you may conduct inspections in accordance with Part 4.4 for any portion of your site that discharges to a sensitive water.

antidegradation requirements, or notify you that an individual permit application is necessary.

If you discharge to a water that is impaired for polychlorinated biphenyls (PCBs) and are engaging in demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, you must:

- a. Implement controls<sup>46</sup> to minimize the exposure of PCB-containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to stormwater; and
- b. Ensure that disposal of such materials is performed in compliance with applicable state, federal, and local laws.

## **4 SITE INSPECTION REQUIREMENTS**

### **4.1 PERSON(S) RESPONSIBLE FOR INSPECTING SITE**

The person(s) inspecting your site may be a person on your staff or a third party you hire to conduct such inspections. You are responsible for ensuring that the person who conducts inspections is a "qualified person."<sup>47</sup>

### **4.2 FREQUENCY OF INSPECTIONS.<sup>48</sup>**

At a minimum, you must conduct a site inspection in accordance with one of the two schedules listed below, unless you are subject to the Part 4.3 site inspection frequency for discharges to sensitive waters or qualify for a Part 4.4 reduction in the inspection frequency:

**4.2.1** At least once every seven (7) calendar days; or

**4.2.2** Once every 14 calendar days *and* within 24 hours of the occurrence of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge.<sup>49</sup> To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.7.1d.

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<sup>46</sup> Examples of controls to minimize exposure of PCBs to precipitation and stormwater include separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, constructing a containment area so that all dust or debris generated by the work remains within the protected area, using tools that minimize dust and heat (<212°F). For additional information, refer to Part 2.3.3 of the CGP Fact Sheet.

<sup>47</sup> A "qualified person" is a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit.

<sup>48</sup> Inspections are only required during the site's normal working hours.

<sup>49</sup> "Within 24 hours of the occurrence of a storm event" means that you must conduct an inspection within 24 hours once a storm event has produced 0.25 inches within a 24-hour period, even if the storm event is still continuing. Thus, if you have elected to inspect bi-weekly in accordance with Part 4.2.2 and there is a storm event at your site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, you must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

#### **4.3 INCREASE IN INSPECTION FREQUENCY FOR SITES DISCHARGING TO SENSITIVE WATERS.**

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes (see Part 3.2), instead of the inspection frequency specified in Part 4.2, you must conduct inspections in accordance with the following inspection frequencies:

Once every seven (7) calendar days *and* within 24 hours of the occurrence of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.7.1d.

#### **4.4 REDUCTIONS IN INSPECTION FREQUENCY**

##### **4.4.1 Stabilized areas.**

- a. You may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, then once per month in any area of your site where the stabilization steps in 2.2.14a have been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in Parts 4.2 and 4.3, as applicable. You must document the beginning and ending dates of this period in your SWPPP.
- b. **Exception.** For "linear construction sites" (as defined in Appendix A) where disturbed portions have undergone final stabilization at the same time active construction continues on others, you may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, in any area of your site where the stabilization steps in 2.2.14a have been completed. After the first month, inspect once more within 24 hours of the occurrence of a storm event of 0.25 inches or greater. If there are no issues or evidence of stabilization problems, you may suspend further inspections. If "wash-out" of stabilization materials and/or sediment is observed, following re-stabilization, inspections must resume at the inspection frequency required in Part 4.4.1a. Inspections must continue until final stabilization is visually confirmed following a storm event of 0.25 inches or greater.

**4.4.2 Arid, semi-arid, or drought-stricken areas** (as defined in Appendix A). If it is the seasonally dry period or a period in which drought is occurring, you may reduce the frequency of inspections to once per month and within 24 hours of the occurrence of a storm event of 0.25 inches or greater. You must document that you are using this reduced schedule and the beginning and ending dates of the seasonally dry period in your SWPPP. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.7.1d.

##### **4.4.3 Frozen conditions:**

- a. If you are suspending construction activities due to frozen conditions, you may temporarily suspend inspections on your site until thawing conditions (as defined in Appendix A) begin to occur if:



- i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at your site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, you must immediately resume your regular inspection frequency as described in Parts 4.2 and 4.3, as applicable;
  - ii. Land disturbances have been suspended; and
  - iii. All disturbed areas of the site have been stabilized in accordance with Part 2.2.14a.
- b. If you are still conducting construction activities during frozen conditions, you may reduce your inspection frequency to once per month if:
- i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at your site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, you must immediately resume your regular inspection frequency as described in Parts 4.2 and 4.3, as applicable; and
  - ii. Except for areas in which you are actively conducting construction activities, disturbed areas of the site have been stabilized in accordance with Part 2.2.14a.

You must document the beginning and ending dates of this period in your SWPPP.

#### **4.5 AREAS THAT MUST BE INSPECTED**

During your site inspection, you must at a minimum inspect the following areas of your site:

- 4.5.1** All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with Part 2.2.14a;
- 4.5.2** All stormwater controls (including pollution prevention controls) installed at the site to comply with this permit;<sup>50</sup>
- 4.5.3** Material, waste, borrow, and equipment storage and maintenance areas that are covered by this permit;
- 4.5.4** All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater;
- 4.5.5** All points of discharge from the site; and
- 4.5.6** All locations where stabilization measures have been implemented.

You are not required to inspect areas that, at the time of the inspection, are considered unsafe to your inspection personnel.

#### **4.6 REQUIREMENTS FOR INSPECTIONS**

During your site inspection, you must at a minimum:

- 4.6.1** Check whether all stormwater controls (*i.e.*, erosion and sediment controls and pollution prevention controls) are properly installed, appear to be operational, and are working as intended to minimize pollutant discharges;

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<sup>50</sup> This includes the requirement to inspect for sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with Part 2.2.4.

- 4.6.2** Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;
- 4.6.3** Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2 and/or 3;
- 4.6.4** Check for signs of visible erosion and sedimentation (*i.e., sediment deposits*) that have occurred and are attributable to your discharge at points of discharge and, if applicable, the banks of any waters of the U.S. flowing within or immediately adjacent to the site;
- 4.6.5** Identify any incidents of noncompliance observed;
- 4.6.6** If a discharge is occurring during your inspection:
  - a. Identify all discharge points at the site; and
  - b. Observe and document the visual quality of the discharge, and take note of the characteristics of the stormwater discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of stormwater pollutants.
- 4.6.7** Based on the results of your inspection, complete any necessary maintenance under Part 2.1.4 and corrective action under Part 5.

#### **4.7 INSPECTION REPORT**

- 4.7.1** You must complete an inspection report within 24 hours of completing any site inspection. Each inspection report must include the following:
  - a. The inspection date;
  - b. Names and titles of personnel making the inspection;
  - c. A summary of your inspection findings, covering at a minimum the observations you made in accordance with Part 4.6, including any necessary maintenance or corrective actions;
  - d. If you are inspecting your site at the frequency specified in Part 4.2.2, Part 4.3, or Part 4.4.1b, and you conducted an inspection because of rainfall measuring 0.25 inches or greater, you must include the applicable rain gauge or weather station readings that triggered the inspection; and
  - e. If you determined that it is unsafe to inspect a portion of your site, you must describe the reason you found it to be unsafe and specify the locations to which this condition applies.
- 4.7.2** Each inspection report must be signed in accordance with Appendix I, Part I.11 of this permit.
- 4.7.3** You must keep a copy of all inspection reports at the site or at an easily accessible location, so that it can be made available at the time of an on-site inspection or upon request by EPA.
- 4.7.4** You must retain all inspection reports completed for this Part for at least three (3) years from the date that your permit coverage expires or is terminated.

#### **4.8 INSPECTIONS BY EPA**

You must allow EPA, or an authorized representative of EPA, to conduct the following activities at reasonable times. To the extent that you are utilizing shared controls that are

not on site to comply with this permit, you must make arrangements for EPA to have access at all reasonable times to those areas where the shared controls are located.

- 4.8.1** Enter onto all areas of the site, including any construction support activity areas covered by this permit, any off-site areas where shared controls are utilized to comply with this permit, discharge locations, adjoining waterbodies, and locations where records are kept under the conditions of this permit;
- 4.8.2** Access and copy any records that must be kept under the conditions of this permit;
- 4.8.3** Inspect your construction site, including any construction support activity areas covered by this permit (see Part 1.2.1c), any stormwater controls installed and maintained at the site, and any off-site shared controls utilized to comply with this permit; and
- 4.8.4** Sample or monitor for the purpose of ensuring compliance.

## **5 CORRECTIVE ACTIONS**

### **5.1 CONDITIONS TRIGGERING CORRECTIVE ACTION.**

You must take corrective action to address any of the following conditions identified at your site:

- 5.1.1** A stormwater control needs repair or replacement (beyond routine maintenance required under Part 2.1.4); or
- 5.1.2** A stormwater control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or
- 5.1.3** Your discharges are causing an exceedance of applicable water quality standards; or
- 5.1.4** A prohibited discharge has occurred (see Part 1.3).

### **5.2 CORRECTIVE ACTION DEADLINES**

For any corrective action triggering conditions in Part 5.1, you must:

- 5.2.1** Immediately take all reasonable steps to address the condition, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events;
- 5.2.2** When the problem does not require a new or replacement control or significant repair, the corrective action must be completed by the close of the next business day;
- 5.2.3** When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than seven (7) calendar days from the time of discovery. If it is infeasible to complete the installation or repair within seven (7) calendar days, you must document in your records why it is infeasible to complete the installation or repair within the 7-day timeframe and document your schedule for installing the stormwater control(s) and making it operational as soon as feasible after the 7-day timeframe. Where these actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within seven (7) calendar days of completing this work.

### **5.3 CORRECTIVE ACTION REQUIRED BY EPA**

You must comply with any corrective actions required by EPA as a result of permit violations found during an inspection carried out under Part 4.8.

### **5.4 CORRECTIVE ACTION REPORT**

For each corrective action taken in accordance with this Part, you must complete a report in accordance with the following:

- 5.4.1** Within 24 hours of identifying the corrective action condition, document the specific condition and the date and time it was identified.
- 5.4.2** Within 24 hours of completing the corrective action (in accordance with the deadlines in Part 5.2), document the actions taken to address the condition, including whether any SWPPP modifications are required.
- 5.4.3** Each corrective action report must be signed in accordance with Appendix I, Part I.11 of this permit.
- 5.4.4** You must keep a copy of all corrective action reports at the site or at an easily accessible location, so that it can be made available at the time of an on-site inspection or upon request by EPA.
- 5.4.5** You must retain all corrective action reports completed for this Part for at least three (3) years from the date that your permit coverage expires or is terminated.

## **6 STAFF TRAINING REQUIREMENTS**

Each operator, or group of multiple operators, must assemble a “stormwater team” to carry out compliance activities associated with the requirements in this permit.

- 6.1** Prior to the commencement of construction activities, you must ensure that the following personnel<sup>51</sup> on the stormwater team understand the requirements of this permit and their specific responsibilities with respect to those requirements:
  - a. Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention controls);
  - b. Personnel responsible for the application and storage of treatment chemicals (if applicable);
  - c. Personnel who are responsible for conducting inspections as required in Part 4.1; and
  - d. Personnel who are responsible for taking corrective actions as required in Part 5.
- 6.2** You are responsible for ensuring that all activities on the site comply with the requirements of this permit. You are not required to provide or document formal training for subcontractors or other outside service providers, but you must ensure that such personnel understand any requirements of this permit that may be affected by the work they are subcontracted to perform.

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<sup>51</sup> If the person requiring training is a new employee who starts after you commence construction activities, you must ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit.

For emergency-related projects, the requirement to train personnel prior to commencement of construction activities does not apply, however, such personnel must have the required training prior to NOI submission.

- 6.3** At a minimum, members of the stormwater team must be trained to understand the following if related to the scope of their job duties (*e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections*):
- a. The permit deadlines associated with installation, maintenance, and removal of stormwater controls and with stabilization;
  - b. The location of all stormwater controls on the site required by this permit and how they are to be maintained;
  - c. The proper procedures to follow with respect to the permit's pollution prevention requirements; and
  - d. When and how to conduct inspections, record applicable findings, and take corrective actions.

- 6.4** Each member of the stormwater team must have easy access to an electronic or paper copy of applicable portions of this permit, the most updated copy of your SWPPP, and other relevant documents or information that must be kept with the SWPPP.

## **7 STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

### **7.1 GENERAL REQUIREMENTS**

All operators associated with a construction site under this permit must develop a SWPPP consistent with the requirements in Part 7 prior to their submittal of the NOI.<sup>52, 53</sup> The SWPPP must be kept up-to-date throughout coverage under this permit.

If a SWPPP was prepared under a previous version of this permit, the operator must review and update the SWPPP to ensure that this permit's requirements are addressed prior to submitting an NOI for coverage under this permit.

### **7.2 SWPPP CONTENTS**

At a minimum, the SWPPP must include the information specified in this Part and as specified in other parts of this permit.

- 7.2.1 All Site Operators.** Include a list of all other operators who will be engaged in construction activities at the site, and the areas of the site over which each operator has control.

- 7.2.2 Stormwater Team.** Identify the personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities, including which members are responsible for conducting inspections.

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<sup>52</sup> The SWPPP does not establish the effluent limits and other permit terms and conditions that apply to your site's discharges; these limits, terms, and conditions are established in this permit.

Where there are multiple operators associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, each operator is responsible for compliance with the permit's terms and conditions. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit. In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not compromise any other operators' controls and/or any shared controls.

**7.2.3 Nature of Construction Activities.**<sup>54</sup> Include the following:

- a. A description of the nature of your construction activities, including the age or dates of past renovations for structures that are undergoing demolition;
- b. The size of the property (in acres or length in miles if a linear construction site);
- c. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);
- d. A description of any on-site and off-site construction support activity areas covered by this permit (see Part 1.2.1 c);
- e. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;
- f. A description and projected schedule for the following:
  - i. Commencement of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (*i.e.*, *excavating, cutting and filling*), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
  - ii. Temporary or permanent cessation of construction activities in each portion of the site;
  - iii. Temporary or final stabilization of exposed areas for each portion of the site; and
  - iv. Removal of temporary stormwater controls and construction equipment or vehicles, and the cessation of construction-related pollutant-generating activities.
- g. A list and description of all pollutant-generating activities<sup>55</sup> on the site. For each pollutant-generating activity, include an inventory of pollutants or pollutant constituents (*e.g.*, *sediment, fertilizers, pesticides, paints, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels*) associated with that activity, which could be discharged in stormwater from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed or removed during construction;
- h. Business days and hours for the project;
- i. If you are conducting construction activities in response to a public emergency (see Part 1.4), a description of the cause of the public emergency (*e.g.*, *mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services*), information substantiating its occurrence (*e.g.*, *state disaster declaration or similar state or local declaration*), and a description of the construction necessary to reestablish affected public services.

**7.2.4 Site Map.** Include a legible map, or series of maps, showing the following features of the site:

- a. Boundaries of the property;

<sup>54</sup> If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

<sup>55</sup> Examples of pollutant-generating activities include paving operations; concrete, paint, and stucco washout and waste disposal; solid waste storage and disposal; and dewatering operations.

- b. Locations where construction activities will occur, including:
  - i. Locations where earth-disturbing activities will occur (note any phasing), including any demolition activities;
  - ii. Approximate slopes before and after major grading activities (note any steep slopes (as defined in Appendix A));
  - iii. Locations where sediment, soil, or other construction materials will be stockpiled;
  - iv. Any water of the U.S. crossings;
  - v. Designated points where vehicles will exit onto paved roads;
  - vi. Locations of structures and other impervious surfaces upon completion of construction; and
  - vii. Locations of on-site and off-site construction support activity areas covered by this permit (see Part 1.2.1c).
- c. Locations of all waters of the U.S. within and one mile downstream of the site's discharge point. Also identify if any are listed as impaired, or are identified as a Tier 2, Tier 2.5, or Tier 3 water;
- d. Areas of federally listed critical habitat within the site and/or at discharge locations;
- e. Type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures);
- f. Drainage patterns of stormwater and authorized non-stormwater before and after major grading activities;
- g. Stormwater and authorized non-stormwater discharge locations, including:
  - i. Locations where stormwater and/or authorized non-stormwater will be discharged to storm drain inlets;<sup>56</sup> and
  - ii. Locations where stormwater or authorized non-stormwater will be discharged directly to waters of the U.S.
- h. Locations of all potential pollutant-generating activities identified in Part 7.2.3g;
- i. Locations of stormwater controls, including natural buffer areas and any shared controls utilized to comply with this permit; and
- j. Locations where polymers, flocculants, or other treatment chemicals will be used and stored.

**7.2.5 Non-Stormwater Discharges.** Identify all authorized non-stormwater discharges in Part 1.2.2 that will or may occur.

**7.2.6 Description of Stormwater Controls.**

- a. For each of the Part 2.2 erosion and sediment control effluent limits, Part 2.3 pollution prevention effluent limits, and Part 2.4 construction dewatering effluent limits, as applicable to your site, you must include the following:
  - i. A description of the specific control(s) to be implemented to meet the effluent limit;

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<sup>56</sup> The requirement to show storm drain inlets in the immediate vicinity of the site on your site map only applies to those inlets that are easily identifiable from your site or from a publicly accessible area immediately adjacent to your site.

- ii. Any applicable stormwater control design specifications (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon);<sup>57</sup>
  - iii. Routine stormwater control maintenance specifications; and
  - iv. The projected schedule for stormwater control installation/implementation.
- b. You must also include any of the following additional information as applicable.
- i. **Natural buffers and/or equivalent sediment controls** (see Part 2.2.1 and Appendix G). You must include the following:
    - (a) The compliance alternative to be implemented;
    - (b) If complying with alternative 2, the width of natural buffer retained;
    - (c) If complying with alternative 2 or 3, the erosion and sediment control(s) you will use to achieve an equivalent sediment reduction, and any information you relied upon to demonstrate the equivalency;
    - (d) If complying with alternative 3, a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size;
    - (e) For "linear construction sites" where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a description of any buffer width retained and/or supplemental erosion and sediment controls installed; and
    - (f) A description of any disturbances that are exempt under Part 2.2.1 that occur within 50 feet of a water of the U.S.
  - ii. **Perimeter controls for a "linear construction site"** (see Part 2.2.3). For areas where perimeter controls are not feasible, include documentation to support this determination and a description of the other practices that will be implemented to minimize discharges of pollutants in stormwater associated with construction activities.

Note: Routine maintenance specifications for perimeter controls documented in the SWPPP must include the Part 2.2.3a requirement that sediment be removed before it has accumulated to one-half of the above-ground height of any perimeter control.
  - iii. **Sediment track-out controls** (see Parts 2.2.4b and 2.2.4c). Document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit.
  - iv. **Sediment basins** (see Part 2.2.12). In circumstances where it is infeasible to utilize outlet structures that withdraw water from the surface, include documentation to support this determination, including the specific conditions or time periods when this exception will apply.
  - v. **Treatment chemicals** (see Part 2.2.13), you must include the following:
    - (a) A listing of the soil types that are expected to be exposed during construction in areas of the project that will drain to chemical treatment systems. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent you have this information prior to construction;

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<sup>57</sup> Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.



- (b) A listing of all treatment chemicals to be used at the site and why the selection of these chemicals is suited to the soil characteristics of your site;
  - (c) If the applicable EPA Regional Office authorized you to use cationic treatment chemicals for sediment control, include the specific controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to an exceedance of water quality standards;
  - (d) The dosage of all treatment chemicals to be used at the site or the methodology to be used to determine dosage;
  - (e) Information from any applicable Safety Data Sheet (SDS);
  - (f) Schematic drawings of any chemically enhanced stormwater controls or chemical treatment systems to be used for application of the treatment chemicals;
  - (g) A description of how chemicals will be stored consistent with Part 2.2.13c;
  - (h) References to applicable state or local requirements affecting the use of treatment chemicals, and copies of applicable manufacturer's specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and
  - (i) A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at your site.
- vi. **Stabilization measures** (see Part 2.2.14). You must include the following:
- (a) The specific vegetative and/or non-vegetative practices that will be used;
  - (b) The stabilization deadline that will be met in accordance with Part 2.2.14.a.i-ii;
  - (c) If complying with the deadlines for sites in arid, semi-arid, or drought-stricken areas, the beginning and ending dates of the seasonally dry period and the schedule you will follow for initiating and completing vegetative stabilization; and
  - (d) If complying with deadlines for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization.
- vii. **Spill prevention and response procedures** (see Part 1.3.5 and Part 2.3). You must include the following:
- (a) Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
  - (b) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Part 2.3.6 and established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available to all employees.

You may also reference the existence of Spill Prevention Control and

Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that you keep a copy of that other plan on site.<sup>58</sup>

- viii. **Waste management procedures** (see Part 2.3.3). Describe the procedures you will follow for handling, storing and disposing of all wastes generated at your site consistent with all applicable federal, state, tribal, and local requirements, including clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.
- ix. **Application of fertilizers** (see Part 2.3.5). Document any departures from the manufacturer specifications where appropriate.

**7.2.7 Procedures for Inspection, Maintenance, and Corrective Action.** Describe the procedures you will follow for maintaining your stormwater controls, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Part 2.1.4, Part 4, and Part 5 of this permit. Also include:

- a. The inspection schedule you will follow, which is based on whether your site is subject to Part 4.2 or Part 4.3, or whether your site qualifies for any of the reduced inspection frequencies in Part 4.4;
- b. If you will be conducting inspections in accordance with the inspection schedule in Part 4.2.2, Part 4.3, or Part 4.4.1b, the location of the rain gauge or the address of the weather station you will be using to obtain rainfall data;
- c. If you will be reducing your inspection frequency in accordance with Part 4.4.1b, the beginning and ending dates of the seasonally defined arid period for your area or the valid period of drought;
- d. If you will be reducing your inspection frequency in accordance with Part 4.4.3, the beginning and ending dates of frozen conditions on your site; and
- e. Any maintenance or inspection checklists or other forms that will be used.

**7.2.8 Staff Training.** Include documentation that the required personnel were, or will be, trained in accordance with Part 6.

**7.2.9 Compliance with Other Requirements.**

- a. **Threatened and Endangered Species Protection.** Include documentation required in Appendix D supporting your eligibility with regard to the protection of threatened and endangered species and designated critical habitat.
- b. **Historic Properties.** Include documentation required in Appendix E supporting your eligibility with regard to the protection of historic properties.
- c. **Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls.** If you are using any of the following stormwater controls at your site, document any contact you have had with the applicable state agency<sup>59</sup> or EPA Regional Office responsible for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing

<sup>58</sup> Even if you already have an SPCC or other spill prevention plan in existence, your plans will only be considered adequate if they meet all of the requirements of this Part, either as part of your existing plan or supplemented as part of the SWPPP.

<sup>59</sup> For state UIC program contacts, refer to the following EPA website: <https://www.epa.gov/uic>.

regulations at 40 CFR 144 -147. Such controls would generally be considered Class V UIC wells:

- i. Infiltration trenches (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);
- ii. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and
- iii. Drywells, seepage pits, or improved sinkholes (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).

**7.2.10 SWPPP Certification.** You must sign and date your SWPPP in accordance with Appendix I, Part I.11.

**7.2.11 Post-Authorization Additions to the SWPPP.** Once you are authorized for coverage under this permit, you must include the following documents as part of your SWPPP:

- a. A copy of your NOI submitted to EPA along with any correspondence exchanged between you and EPA related to coverage under this permit;
- b. A copy of the acknowledgment letter you receive from NeT assigning your NPDES ID (*i.e.*, *permit tracking number*);
- c. A copy of this permit (an electronic copy easily available to the stormwater team is also acceptable).

### **7.3 ON-SITE AVAILABILITY OF YOUR SWPPP**

You must keep a current copy of your SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by EPA; a state, tribal, or local agency approving stormwater management plans; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS).

EPA may provide access to portions of your SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from EPA, USFWS, or NMFS.<sup>60</sup>

If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site.

### **7.4 SWPPP MODIFICATIONS**

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<sup>60</sup> Information covered by a claim of confidentiality will be disclosed by EPA only to the extent of, and by means of, the procedures set forth in 40 CFR Part 2, Subpart B. In general, submitted information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with implementing the CWA. The authorized representatives, including employees of other executive branch agencies, may review CBI during the course of reviewing draft regulations.

- 7.4.1** You must modify your SWPPP, including the site map(s), within seven (7) days of any of the following conditions:
- a. Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, stormwater controls, or other activities at your site that are no longer accurately reflected in your SWPPP. This includes changes made in response to corrective actions triggered under Part 5. You do not need to modify your SWPPP if the estimated dates in Part 7.2.3f change during the course of construction;
  - b. To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
  - c. If inspections or investigations by EPA or its authorized representatives determine that SWPPP modifications are necessary for compliance with this permit;
  - d. Where EPA determines it is necessary to install and/or implement additional controls at your site in order to meet the requirements of this permit, the following must be included in your SWPPP:
    - i. A copy of any correspondence describing such measures and requirements; and
    - ii. A description of the controls that will be used to meet such requirements.
  - e. To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater controls implemented at the site; and
  - f. If applicable, if a change in chemical treatment systems or chemically enhanced stormwater control is made, including use of a different treatment chemical, different dosage rate, or different area of application.
- 7.4.2** You must maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Part 7.2.10 above) and a brief summary of all changes.
- 7.4.3** All modifications made to the SWPPP consistent with Part 7.4 must be authorized by a person identified in Appendix I, Part I.11.b.
- 7.4.4** Upon determining that a modification to your SWPPP is required, if there are multiple operators covered under this permit, you must immediately notify any operators who may be impacted by the change to the SWPPP.

## **8 HOW TO TERMINATE COVERAGE**

Until you terminate coverage under this permit, you must comply with all conditions and effluent limitations in the permit. To terminate permit coverage, you must submit to EPA a complete and accurate Notice of Termination (NOT), which certifies that you have met the requirements for terminating in Part 8.

### **8.1 MINIMUM INFORMATION REQUIRED IN NOT**

- 8.1.1** NPDES ID (*i.e.*, *permit tracking number*) provided by EPA when you received coverage under this permit;
- 8.1.2** Basis for submission of the NOT (see Part 8.2);
- 8.1.3** Operator contact information;
- 8.1.4** Name of site and address (or a description of location if no street address is available); and

**8.1.5** NOT certification.

**8.2 CONDITIONS FOR TERMINATING CGP COVERAGE**

You must terminate CGP coverage only if one or more of the following conditions has occurred:

**8.2.1** You have completed all construction activities at your site and, if applicable, construction support activities covered by this permit (see Part 1.2.1c), and you have met the following requirements:

- a. For any areas that (1) were disturbed during construction, (2) are not covered over by permanent structures, and (3) over which you had control during the construction activities, you have met the requirements for final vegetative or non-vegetative stabilization in Part 2.2.14b;
- b. You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long-term use following your termination of permit coverage;
- c. You have removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable; and
- d. You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following your termination of permit coverage; or

**8.2.2** You have transferred control of all areas of the site for which you are responsible under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit; or

**8.2.3** Coverage under an individual or alternative general NPDES permit has been obtained.

**8.3 HOW TO SUBMIT YOUR NOT**

You must use EPA's NPDES eReporting Tool (NeT) to electronically prepare and submit your NOT for the 2017 CGP.

To access NeT, go to <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>.

Waivers from electronic reporting may be granted as specified in Part 1.4.1. If the EPA Regional Office grants you approval to use a paper NOT, and you elect to use it, you must complete the form in Appendix K.

**8.4 DEADLINE FOR SUBMITTING THE NOT**

You must submit your NOT within 30 calendar days after any one of the conditions in Part 8.2 occurs.

**8.5 EFFECTIVE DATE OF TERMINATION OF COVERAGE**

Your authorization to discharge under this permit terminates at midnight of the calendar day that a complete NOT is submitted to EPA.

## 9 PERMIT CONDITIONS APPLICABLE TO SPECIFIC STATES, INDIAN COUNTRY LANDS, OR TERRITORIES

The provisions in 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 areas in certain states subject to construction projects by Federal Operators. States, Indian country, and areas subject to construction by Federal Operators not included in this Part do not have any modifications or additions to the applicable conditions of this permit.

### 9.1 EPA Region 1

#### 9.1.1 NHR100000 State of New Hampshire

- a. If you disturb 100,000 square feet or more of contiguous area, you must also apply for an Alteration of Terrain (AoT) permit from DES pursuant to RSA 485- A:17 and Env-Wq 1500. This requirement also applies to a lower disturbance threshold of 50,000 square feet or more when construction occurs within the protected shoreline under the Shoreland Water Quality Protection Act (see RSA 483-B and Env-Wq 1400). A permit application must also be filed if your project disturbs an area of greater than 2,500 square feet, is within 50 feet of any surface water, and has a flow path of 50 feet or longer disturbing a grade of 25 percent or greater. Project sites with disturbances smaller than those discussed above, that have the potential to adversely affect state surface waters, are subject to the conditions of an AoT General Permit by Rule.
- b. You must determine that any excavation dewatering discharges are not contaminated before they will be authorized as an allowable non-stormwater discharge under this permit (see Part 1.2.2). The water is considered uncontaminated if there is no groundwater contamination within 1,000 feet of the groundwater dewatering location. Information on groundwater contamination can be generated over the Internet via the NHDES web site <http://des.nh.gov/> by using the One Stop Data Mapper at <http://des.nh.gov/onestop/gis.htm>. If it is determined that the groundwater to be dewatered is near a remediation or other waste site you must apply for the Remediation General Permit (see <https://www3.epa.gov/region1/npdes/rqp.html>.)
- c. You must treat any uncontaminated excavation dewatering discharges as necessary to remove suspended solids and turbidity. The discharges must be sampled at least once per week during weeks when discharges occur. Samples must be analyzed for total suspended solids (TSS) or turbidity and must meet monthly average and daily maximum limits of 50 milligrams per liter (mg/L) and 100 mg/L, respectively for TSS or 33 mg/l and 67 mg/l, respectively for turbidity. TSS (a.k.a. Residue, Nonfilterable) or turbidity sampling and analysis must be performed in accordance with Tables IB and II in 40 CFR 136.3 ([http://www.ecfr.gov/cgi-bin/text-idx?SID=0243e3c4283cbd7d8257eb6afc7ce9a2&mc=true&node=se40.25.136\\_13&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=0243e3c4283cbd7d8257eb6afc7ce9a2&mc=true&node=se40.25.136_13&rgn=div8)). Records of any sampling and analysis must be maintained and kept with the SWPPP for at least three years after final site stabilization.
- d. Construction site owners and operators must consider opportunities for post-construction groundwater recharge using infiltration best management practices

(BMPs) during site design and preparation of the SWPPP. If your construction site is in a town that is required to obtain coverage under the NPDES General Permit for discharges from Municipal Separate Storm Sewer Systems (MS4) you may be required to use such practices. The SWPPP must include a description of any on-site infiltration that will be installed as a post-construction stormwater management measure or reasons for not employing such measures such as 1) The facility is located in a wellhead protection area as defined in RSA 485- C:2; or 2) The facility is located in an area where groundwater has been reclassified to GAA, GAI or GA2 pursuant to RSA 485-C and Env-DW 901; or 3) Any areas that would be exempt from the groundwater recharge requirements contained in Env-Wq 1507.04, including all land uses or activities considered to be a “High-load Area” (see Env-Wq 1502.30). For design considerations for infiltration measures see Env-Wq 1508.06.

- e. Appendix F contains a list of Tier 2, or high quality waters. Although there is no official list of tier 2 waters, it can be assumed that all NH surface waters are tier 2 for turbidity unless 1) the surface water that you are proposing to discharge into is listed as impaired for turbidity in the states listing of impaired waters (see Surface Water Quality - Watershed Report Cards at [http://des.nh.gov/organization/divisions/water/wmb/swqa/report\\_cards.htm](http://des.nh.gov/organization/divisions/water/wmb/swqa/report_cards.htm)) or 2) sampling upstream of the proposed discharge location shows turbidity values greater than 10 NTU. A single grab sample collected during dry weather (no precipitation within 48 hours) is acceptable.
- f. To ensure compliance with RSA 485-C, RSA 485-A, RSA 485-A:13, I(a), Env-Wq 1700 and Env-Wq 302, the following information may be requested by NHDES. This information must be kept on site unless you receive a written request from NHDES that it be sent to the address shown in Part 9.1.4 (g).
  - i. A site map required in Part 7.2.4, showing the type and location of all post-construction infiltration BMPs utilized at the facility or the reason(s) why none were installed;
  - ii. A list of all non-stormwater discharges that occur at the facility, including their source locations and the control measures being used (see Part 1.2.2).
  - iii. Records of sampling and analysis of TSS required for construction dewatering discharges (see Part 9.1.4 (c)).
- g. All required or requested documents must be sent to:

NH Department of Environmental Services, Wastewater Engineering Bureau,  
Permits & Compliance Section  
P.O. Box 95  
Concord, NH 03302-0095

**9.1.2 VTR10F000 Areas in the State of Vermont subject to construction by a Federal Operator**

- a. Earth disturbance at any one time is limited to five acres.
- b. All areas of earth disturbance must have temporary or final stabilization within 14 days of the initial disturbance. After this time, disturbed areas must be temporarily or permanently stabilized in advance of any runoff producing event. A runoff producing event is an event that produces runoff from the construction site. Temporary stabilization is not required if the work is occurring in a self-contained

excavation (i.e. no outlet) with a depth of two feet or greater (e.g. house foundation excavation, utility trenches). Areas of a construction site that drain to sediment basins are not considered eligible for this exemption, and the exemption applies only to the excavated area itself.

- c. The use of the cationic polymers is prohibited unless approved under a site-specific plan.
- d. Site inspections on active construction sites shall be conducted daily during the period from October 15 – April 15.
- e. Any applicant under EPA's CGP shall allow authorized Agency representatives, at reasonable times and upon presentation of credentials, to enter upon the project site for purposes of inspecting the project and determining compliance with this Certification.
- f. The Agency may reopen and alter or amend the conditions of this Certification over the life of the project when such action is necessary to assure compliance with the VWQS.

## **9.2 EPA Region 3**

### **9.2.1 DCR100000 District of Columbia**

- a. The permittee must comply with the District of Columbia Water Pollution Control Act of 1984, as amended, (D.C. Official Code § 8-103.01 et seq.) and its implementing regulations in Title 21, Chapters 11 and 19 of the District of Columbia Municipal Regulations. Nothing in this permit will be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to District of Columbia laws and regulations.
- b. The permittee must comply with the District of Columbia Stormwater Management, and Soil Erosion and Sediment Control in Chapter 5 of Title 21 of the District of Columbia Municipal Regulations.
- c. The permittee must comply with District of Columbia Flood Management control in Chapter 31 of Title 20 of the District of Columbia Municipal Regulations.
- d. The Department may request a copy of the Stormwater Pollution Prevention Plan (SWPPP) and the permittee is required to submit the SWPPP to the Department within 14 days of such request. The Department may conduct an inspection of any facility covered by this permit to ensure compliance with District's law requirements, including water quality standards. The Department may enforce its certification conditions.
- e. The Department may require the permittee 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 in Chapter 19 of Title 21 of the District of Columbia Municipal Regulations.
- f. The Department may require the permittee to provide measurable verification of the effectiveness of Best Management Practices (BMPs) and other control measures used in the stormwater management program, including water quality monitoring.
- g. The Department has determined that compliance with this permit does not protect the permittee from enforcement actions deemed necessary by the Department



under its associated regulations to address an imminent threat to public health or a significant adverse environmental impact which results in a violation of the District of Columbia Water Pollution Control Act of 1984, as amended, (D.C. Official Code § 8-103.01 et seq.) and its implementing regulations.

- h. The Department reserves the right to modify this Section 401 Water Quality Certification if any changes, modifications, or deletions are made to this general permit. In addition, the Department reserves the right to add and/or alter the terms and conditions of this Section 401 Water Quality Certification to carry out its responsibilities during the term of this general permit with respect to water quality, including any revisions to District of Columbia Water Quality Standards in Chapter 11 of Title 21 of the District of Columbia Municipal Regulations.
- i. Should any violation of the District's Water Quality Standards, or the conditions of this Section 401 Water Quality Certification occur, the Department will direct the permittee to correct the violation(s). The Department has the right to take any action as authorized by the District laws and regulations to address the violations of this permit or the Water Pollution Control Act and implementing regulations. Substantial civil and criminal penalties are authorized for discharging into District waters in violation of an order or permit issued by the Department. This Section 401 Water Quality Certification does not relieve the permittee of the duty to comply with other applicable District's statutes and regulations.
- j. The permittee must submit copies of Notice of Intent (NOI) and Notice of Termination to DOEE at the same time these documents are submitted to EPA.
- k. The permittee shall allow DOEE to inspect any facilities, equipment, practices, or operations regulated or required under this permit and to access records maintained under the conditions of this permit.
- l. All required or requested documents shall be signed and sent to the: Department of Energy & Environment, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Associate Director, Inspection and Enforcement Division.

**9.2.2 DER10F000 Areas in the State of Delaware subject to construction by a Federal Operator**

- a. Federal agencies engaging in construction activities must submit, to DNREC, a sediment and stormwater management (S&S) plan and obtain approval from DNREC in accordance with 7 Del. C. §4010, 7 DE Admin. Code 5101, and 7 DE Admin. Code 7201.
- b. Federal agencies engaging in construction activities must provide for construction review by a certified construction reviewer in accordance with 7 Del. C. §§4010 & 4013 and 7 DE Admin. Code 5101, subsection 6.1.6.
- c. Federal agencies engaging in construction activities must certify that all responsible personnel involved in the construction project will have attended the blue card training prior to initiation of any land disturbing activity – see 7 Del. C. §§ 4002 & 4014 and 7 DE Admin. Code 5101.

### 9.3 EPA Region 5

#### 9.3.1 MNR10I000 Indian country within the State of Minnesota

##### 9.3.1.1 Fond du Lac Band of Lake Superior Chippewa. The following conditions apply only to discharges on the Fond du Lac Band of Lake Superior Chippewa Reservation:

- a. A copy of the Stormwater Pollution Prevention Plan (SWPPP) must be submitted to the Office of Water Protection at least fifteen (15) days in advance of sending the Notice of Intent (NOI) to EPA. The SWPPP can be submitted electronically to [richardgitar@FDLREZ.com](mailto:richardgitar@FDLREZ.com) or by hardcopy sent to:

Fond du Lac Reservation  
Office of Water Protection  
1720 Big Lake Road  
Cloquet, MN 55720

CGP applicants are encouraged to work with the FDL Office of Water Protection in the identification of all proposed receiving.

- b. Copies of the Notice of Intent (NOI) and the Notice of Termination (NOT) must be sent to the Fond du Lac Office of Water Protection at the same time they are submitted to EPA.
- c. The turbidity limit shall NOT exceed 10% of natural background within the receiving water(s) as determined by Office of Water Protection staff.
- d. Turbidity sampling must take place within 24 hours of a ½-inch or greater rainfall event. The results of the sampling must be reported to the Office of Water Protection within 7 days of the sample collection. All sample reporting must include the date and time, location (GPS: UTM/Zone 15), and NTU. CGP applicants are encouraged to work with the Office of Water Protection in determining the most appropriate location(s) for sampling.
- e. Receiving waters with open water must be sampled for turbidity prior to any authorized discharge as determined by Office of Water Protection staff. This requirement only applies to receiving waters in which no ambient turbidity data exists.
- f. This Certification does not pertain to any new discharge to Outstanding Reservation Resource Waters (ORRW) as described in §105 b.3. of the Fond du Lac Water Quality Standards (Ordinance #12/98, as amended). Although additional waters may be designated in the future, currently Perch Lake, Rice Portage Lake, Miller Lake, Deadfish Lake, and Jaskari Lake are designated as ORRWs. New dischargers wishing to discharge to an ORRW must obtain an individual permit from EPA for stormwater discharges from large and small construction activities.
- g. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in the Water Quality Standards of the Fond du Lac Reservation, Ordinance 12/98, as amended. This includes, but is not limited to, the prevention of any discharge that causes a condition in which visible solids, bottom deposits, or turbidity impairs the usefulness of water of the Fond du Lac Reservation for any of the uses designated in the Water Quality Standards of the Fond du Lac Reservation. These uses include wildlife, aquatic life, warm water fisheries, cold water fisheries, subsistence fishing (netting), primary contact recreation, secondary

contact recreation, cultural, wild rice areas, aesthetic waters, agriculture, navigation, and commercial.

- h. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the Fond du Lac Reservation. All spills must be reported to the appropriate emergency management agency (National Response Center AND the State Duty Officer), and measures shall be taken immediately to prevent the pollution of waters of the Fond du Lac Reservation, including groundwater. The Fond du Lac Office of Water Protection must also be notified immediately of any spill regardless of size.
- i. This certification does not authorize impacts to cultural, historical, or archeological features or sites, or properties that may be eligible for such listing.

**9.3.1.2 Grand Portage Band of Lake Superior Chippewa.** The following conditions apply only to discharges on the Grand Portage Band of Lake Superior Chippewa Reservation:

- a. The CGP authorization is for construction activities that may occur within the exterior boundaries of the Grand Portage Reservation in accordance to the Grand Portage Land Use Ordinance. The CGP regulates stormwater discharges associated with construction sites of one acre or more in size. Only those activities specifically authorized by the CGP are authorized by this certification (the "Certification"). This Certification does not authorize impacts to cultural, historical, or archeological features or sites, or properties that may be eligible for listing as such.
- b. All construction stormwater discharges authorized by the CGP must comply with the Water Quality Standards and Water Resources Ordinance, as well as Applicable Federal Standards (as defined in the Water Resources Ordinance). As such, appropriate steps must be taken to ensure that petroleum products or other chemical pollutants are prevented from entering the Waters of the Reservation (as defined in the Water Resources Ordinance). All spills must be reported to the appropriate emergency-management agency, and measures must be taken to prevent the pollution of the Waters of the Reservation, including groundwater.
- c. The 2017 CGP requires inspections and monitoring reports of the construction site stormwater discharges by a qualified person. Monitoring and inspection reports must comply with the minimum requirements contained in the 2017 CGP. The monitoring plan must be prepared and incorporated into the Stormwater Pollution Prevention Plan (the "SWPPP"). A copy of the SWPPP must be submitted to the Board at least 30 days in advance of sending the requisite Notice of Intent to EPA. The SWPPP should be sent to:

Grand Portage Environmental Resources Board  
P.O. Box 428  
Grand Portage, MN 55605

Copies of the Notice of Intent and Notice of Termination required under the CGP must be submitted to the Board at the address above at the same time they are submitted to the EPA.

- d. If requested by the Grand Portage Environmental Department, the permittee must provide additional information necessary for a case-by-case eligibility determination to assure compliance with the Water Quality Standards and any Applicable Federal Standards.

- e. Discharges that the Board has determined to be or that may reasonably be expected to be contributing to a violation of Water Quality Standards or Applicable Federal Standards are not authorized by this Certification.
- f. The Board retains full authority provided by the Water Resources Ordinance to ensure compliance with and to enforce the provisions of the Water Resource Ordinance and Water Quality Standards, Applicable Federal Standards, and these Certification conditions.
- g. Appeals related to Board actions taken in accordance with any of the preceding conditions may be heard by the Grand Portage Tribal Court.

**9.3.2 WIR101000 Indian country within the State of Wisconsin, except the Sokaogon Chippewa (Mole Lake) Community**

**9.3.2.1 Bad River Band of Lake Superior Tribe of Chippewa Indians:** The following conditions apply only to discharges on the Bad River Band of the Lake Superior Tribe of Chippewa Indians Reservation:

- a. Only those activities specifically authorized by the CGP are authorized by this Certification. This Certification does not authorize impacts to cultural properties, or historical sites, or properties that may be eligible for listing as such.<sup>61, 62</sup>
- b. All projects which are eligible for coverage under the CGP and are located within the exterior boundaries of the Bad River Reservation shall be implemented in such a manner that is consistent with the Tribe's Water Quality Standards (WQS) in order to protect Reservations waters that may be impacted by stormwater discharge including embankments, outlets, adjacent streambanks, slopes, and downstream waters.<sup>63</sup>
- c. Operators are not eligible to obtain authorization under the CGP for all new discharges to an Outstanding Tribal Resource Water (or Tier 3 water).<sup>64</sup> Outstanding Tribal Resource Waters, or Tier 3 waters, include the following: Kakagon Slough and the lower wetland reaches of its tributaries that support wild rice, Kakagon River, Bad River Slough, Honest John Lake, Bog Lake, a portion of Bad River, from where it enters the Reservation through the confluence with the White River, and Potato River.<sup>65</sup>
- d. An operator proposing to discharge to an Outstanding Resource Water (or Tier 2.5 water) under the CGP must comply with the antidegradation provisions of the Tribe's WQS. Outstanding Resource Waters, or Tier 2.5 waters, include the following: a portion of Bad River, from downstream the confluence with the White River to Lake Superior, White River, Marengo River, Graveyard Creek, Bear Trap Creek, Wood Creek, Brunsweller River, Tyler Forks, Bell Creek, and Vaughn Creek.<sup>66</sup> The antidegradation demonstration materials described in provision E.4.iii. must be submitted to the following address:

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<sup>61</sup> Bad River Band of Lake Superior Tribe of Chippewa Indians Water Quality Standards adopted by Resolution No. 7-6-11-441 (hereafter, Tribe's WQS).

<sup>62</sup> 36 C.F.R. § 800.16(l)(2).

<sup>63</sup> See footnote 61.

<sup>64</sup> Tribe's WQS: See provisions E.3.ii. and E.4.iv.

<sup>65</sup> Tribe's WQS: See provision E.2.iii.

<sup>66</sup> Tribe's WQS: See provision E.2.ii.

Bad River Tribe's Natural Resources Department  
Attn: Water Resources Specialist  
P.O. Box 39  
Odanah, WI 54861

- e. An operator proposing to discharge to an Exceptional Resource Water (or Tier 2 water) under the CGP must comply with the antidegradation provisions of the Tribe's WQS. Exceptional Resource Waters, or Tier 2 waters, include the following: any surface water within the exterior boundaries of the Reservation that is not specifically classified as an Outstanding Resource Water (Tier 2.5 water) or an Outstanding Tribal Resource Water (Tier 3 water).<sup>67</sup> The antidegradation demonstration materials described in provision E.4.ii. must be submitted to the following address:

Bad River Tribe's Natural Resources Department  
Attn: Water Resources Specialist  
P.O. Box 39  
Odanah, WI 54861

- f. Projects utilizing cationic treatment chemicals<sup>68</sup> within the Bad River Reservation boundaries are not eligible for coverage under the CGP.<sup>69</sup>
- g. A discharge to a surface water within the Bad River Reservation boundaries shall not cause or contribute to an exceedance of the turbidity criterion included in the Tribe's WQS, which states: Turbidity shall not exceed 5 NTU over natural background turbidity when the background turbidity is 50 NTU or less, or turbidity shall not increase more than 10% when the background turbidity is more than 50 NTU.<sup>70</sup>
- h. All projects which are eligible for coverage under the CGP within the exterior boundaries of the Bad River Reservation must comply with the Bad River Reservation Wetland and Watercourse Protection Ordinance, or Chapter 323 of the Bad River Tribal Ordinances, including the erosion and sedimentation control, natural buffer, and stabilization requirements. Questions regarding Chapter 323 and requests for permit applications can be directed to the Wetlands Specialist in the Tribe's Natural Resources Department at (715) 682-7123 or [wetlands@badriver-nsn.gov](mailto:wetlands@badriver-nsn.gov).
- i. An operator of a project, which is eligible for coverage under the CGP, that would result in an allowable discharge under the CGP occurring within the exterior boundaries of the Bad River Reservation must notify the Tribe prior to the commencing earth-disturbing activities.<sup>71</sup> <sup>72</sup> The operator must submit a copy of the Notice of Intent (NOI) to the following addresses at the same time it is submitted to the U.S. EPA:

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<sup>67</sup> Tribe's WQS: See provision E.2.i.

<sup>68</sup> See definition of cationic treatment chemicals in Appendix A of the CGP.

<sup>69</sup> Tribe's WQS: See provisions E.6.ii.a. and E.6.ii.c.

<sup>70</sup> Tribe's WQS: See provision E.7.iii.

<sup>71</sup> See footnote 61.

<sup>72</sup> See footnote 62.

Bad River Tribe's Natural Resources Department  
Attn: Water Resources Specialist  
P.O. Box 39  
Odanah, WI 54861

Bad River Tribe's Natural Resources Department  
Attn: Tribal Historic Preservation Officer (THPO)  
P.O. Box 39  
Odanah, WI 54861

The operator must also submit a copy of the Notice of Termination (NOT) to the above addresses at the same time it is submitted to the U.S. EPA.

- j. The Tribal Historic Preservation Officer (THPO) must be provided 30 days to comment on the project.<sup>73</sup>
- k. The operator must obtain THPO concurrence in writing. This written concurrence will outline measures to be taken to prevent or mitigate effects to historic properties. For more information regarding the specifics of the cultural resources process, see 36 CFR Part 800. A best practice for an operator is to consult with the THPO during the planning stages of an undertaking.<sup>74</sup>
- l. An operator of a project, which is eligible for coverage under the CGP, that would result in an allowable discharge under the CGP occurring within the exterior boundaries of the Bad River Reservation must submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) to the following address at the same time as submitting the NOI:<sup>75</sup>

Bad River Tribe's Natural Resources Department  
Attn: Water Resources Specialist  
P.O. Box 39  
Odanah, WI 54861

- m. Any corrective action reports that are required under the CGP must be submitted to the following address within one (1) working day of the report completion:<sup>76</sup>

Bad River Tribe's Natural Resources Department  
P.O. Box 39  
Odanah, WI 54861

- n. An operator shall be responsible for meeting any additional permit requirements imposed by the U.S. EPA necessary to comply with the Tribe's antidegradation policies if the discharge point is located upstream of waters designated by the Tribe.<sup>77</sup>

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<sup>73</sup> 36 C.F.R. § 800.3(c)(4).

<sup>74</sup> 36 C.F.R. § 800.3(b).

<sup>75</sup> See footnote 61.

<sup>76</sup> See footnote 61.

<sup>77</sup> See footnote 61.

**9.3.2.2 Lac du Flambeau Band of Lake Superior Tribe of Chippewa Indians:** The following conditions apply only to discharges on the Lac du Flambeau Band of the Lake Superior Tribe of Chippewa Indians Reservation:

- a. A copy of the Stormwater Pollution Prevention Plan must be submitted to the following office, for the Tribal environmental review process, at least thirty (30) days in advance of sending the Notice of Intent (NOI) to EPA:

Lac du Flambeau  
Tribal Land Management  
P.O. Box 279  
Lac du Flambeau, WI 54538

CGP applicants are encouraged to work with the LdF Water Resources Program in the identification of all proposed receiving waters.

- b. Copies of the NOI and the Notice of Termination (NOT) must be sent to the LdF Water Resources Program at the same time they are submitted to EPA.
- c. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in the Water Quality Standards of the Lac du Flambeau Reservation. This includes, but is not limited to, the prevention of any discharge that cause a condition in which visible solids, bottom deposits, or turbidity impairs the usefulness of water of the Lac du Flambeau Reservation for any of the uses designated in the Water Quality Standards of the Lac du Flambeau Reservation.
- d. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the Lac du Flambeau Reservation. All spills must be reported to the appropriate emergency management agency, and measures shall be taken immediately to prevent the pollution of waters of the Lac du Flambeau reservation, including groundwater.
- e. This certification does not authorize impacts to cultural, historical, or archeological features or sites, or properties that may be eligible for such listing.
- f. Due to the significant ecological and cultural importance of the Lac du Flambeau Reservation, any operator requesting a permit for a point source discharge of pollutants (i.e., discharge) associated with the Stormwater Discharge will need a stormwater pollution prevention plan in place that does not violate Lac du Flambeau Water Quality Standards to protect Reservation Waters.

## **9.4 EPA Region 6**

### **9.4.1 NMR100000 State of New Mexico, except Indian country**

- a. If construction dewatering activities are anticipated at a site, permittees must complete the following steps:
  - i. Investigative information must be documented in the facility SWPPP.
  - ii. Refer to the GWQB Mapper at <https://gis.web.env.nm.gov/GWQB/> AND the PSTB Mapper (Go Mapper) at <https://gis.web.env.nm.gov/GoNM/>

and check if the following sources are located within the noted distance from your anticipated construct site groundwater dewatering activity:

<b>Project Location Relative to a Source of Potential Groundwater Contamination</b>	<b>Constituents likely to be required for testing</b>
<i>Within 0.5 mile of an open Leaking Underground Storage Tank (LUST) site</i>	<i>BTEX (Benzene, Toluene, Ethylbenzene, and Xylene) plus additional parameters depending on site conditions.*</i>
<i>Within 0.5 mile of an open Voluntary Remediation site</i>	<i>All parameters listed in Appendix A (or an alternate list approved by the NMED SWQB)**</i>
<i>Within 0.5 mile of an open RCRA Corrective Action Site</i>	
<i>Within 0.5 mile of an open Abatement Site</i>	
<i>Within 0.5 mile of an open Brownfield Site</i>	
<i>Within 1.0 mile or more of a Superfund site or National Priorities List (NPL) site with associated groundwater contamination.</i>	

*\*For further assistance determining whether dewatering may encounter impacted groundwater, the permittee may contact the NMED Ground Water Quality Bureau at: 505-827-2965.*

*\*\*EPA approved-sufficiently sensitive methods must be used - approved methods are listed in 40 CFR Part 136.3.*

- ii. Indicate on the NOI that dewatering activities are anticipated. Provide information on flow and potential to encounter impacted groundwater.
  - iii. Permittee must test the quality of the groundwater according to the chart above. Hardness and pH must also be measured.
  - iv. Permittee must send test result data to EPA Region 6 and the NMED Surface Water Quality Bureau. If the test data exceed standards, it cannot be discharged from the construction site into surface waters under this permit. Discharge to surface waters must be conducted under a separate NPDES individual permit to ensure proper treatment and disposal.
  - v. If disposal will be to the ground surface or in an unlined pond, the permittee must submit an NO/ to the NMED Ground Water Quality Bureau.
- b. Operators are not eligible to obtain authorization under this permit for all new and existing storm water discharges to outstanding national resource waters (ONRWs) (also referred to as "Tier 3" waters.)
- c. Operators who intend to obtain authorization under this permit for new and existing storm water discharges from construction sites must satisfy the following condition:
- i. The SWPPP must include site-specific interim and permanent stabilization, managerial, and structural solids, erosion and sediment control best management practices (BMPs) and/or other controls that are designed to prevent to the maximum extent practicable an increase in the sediment yield and flow velocity from pre-construction, pre-development conditions to assure that applicable standards in 20.6.4.NMAC, including the antidegradation policy, or TMDL waste load allocations (WLAs) are met. This requirement applies to discharges both during construction and after construction operations have been completed. The SWPPP must identify



and document the rationale for selecting these BMPs and/or other controls. The SWPPP must also describe design specifications, construction specifications, maintenance schedules (including a long term maintenance plan), criteria for inspections, and expected performance and longevity of these BMPs. For sites greater than 5 acres in size, BMP selection must be made based on the use of appropriate soil loss prediction models (i.e. SEDCAD, RUSLE, SEDIMOT, MULTISED, etc.) OR equivalent generally accepted (by professional erosion control specialists) soil loss prediction tools.

- ii. For all sites, the operator(s) must demonstrate, and include documentation in the SWPPP, that implementation of the site-specific practices will assure that the applicable standards or TMDL WLAs are met, and will result in sediment yields and flow velocities that, to the maximum extent practicable, will not be greater than the sediment yield levels and flow velocities from preconstruction, pre-development conditions.
  - iii. All SWPPPs must be prepared in accordance with good engineering practices by qualified (e.g. CPESC certified, engineers with appropriate training) erosion control specialists familiar with the use of soil loss prediction models and design of erosion and sediment control systems based on these models (or equivalent soil loss prediction tools). Qualifications of the preparer (e.g., professional certifications, description of appropriate training) must be documented in the SWPPP. The operator(s) must design, implement, and maintain BMPs in the manner specified in the SWPPP.
- d. Permittees can call 505-827-9329 for emergencies at any time and 505-476-6000 for non-emergencies during business hours from 5am-5pm, Monday through Friday.

**9.4.2 NMR10I000 Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10I000 and Ute Mountain Reservation Lands that are covered under Colorado permit COR10I000.**

**9.4.2.1 Pueblo of Isleta.** The following conditions apply only to discharges on the Pueblo of Isleta Reservation:

- a. CGP at 1.3 Prohibited discharges: Stormwater discharges associated with construction activity that EPA or the Pueblo of Isleta, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or may reasonably be expected to contribute to a violation or excursion of any applicable water quality standard, including the antidegradation policy, or the impairment of a designated use of receiving waters are not authorized by this permit.
- b. CGP at 1.4.1 How to Submit Your NOI: The operator shall provide a copy of the Notice of Intent ("NOI") to the Pueblo of Isleta at the same time it is submitted to the U.S. Environmental Protection Agency, for projects occurring within the exterior boundaries of the Pueblo of Isleta. The operator shall also notify the Pueblo of Isleta when it has submitted the Notice of Termination ("NOT"). The NOI and NOT shall be sent to the Pueblo of Isleta at the following address:

Water Quality Control Officer  
Pueblo of Isleta  
Environment Department  
PO Box 1270

Isleta, NM 87022  
(505) 869-9819  
E-mail: [POI36871@isletapueblo.com](mailto:POI36871@isletapueblo.com)

Overnight/Express Mail Delivery  
Pueblo of Isleta  
Environment Department  
6 Sagebrush St.  
Albuquerque, NM 87105

- c. CGP at 1.5 Requirement to post a notice of your permit coverage: Amend to read: "You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road or tribal road that is nearest to the active part of the construction site..."
- d. CGP at 7.2.6 Description of stormwater controls: The SWPPP will be considered to be incomplete if the operator has not coordinated requirements under this Part with the Pueblo of Isleta Environment Department.
- e. CGP I.12.6.1 at pg.I-6 of 8. The Pueblo of Isleta requests notification within 10 hours (rather than 24 hrs.) if health or the environment become endangered.
- f. CGP at I.12.2 Anticipated noncompliance: Amend to read: "You must give advance notice to EPA and the Pueblo of Isleta at the address indicated in 1.4.1(a) of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements."
- g. CGP at I.12.6.1: Any noncompliance for projects within the exterior boundaries of the Pueblo of Isleta which may endanger health or the environment shall be reported directly to the EPA Regional Office [(see contacts at <https://www2.epa.gov/national-pollutant-discharge-elimination-system-npdes/contact-us-stormwater#regional>)] and to the Pueblo of Isleta Water Quality Control Officer. Any information must be provided orally within 12 hours of the time you become aware of the circumstances. Other requirements of this Part for a written submission apply. Electronic communication (E-mail) shall be provided as soon as practical. Verbal notice shall be provided to:

Water Quality Control Officer  
Pueblo of Isleta  
E-mail: [POI36871@isletapueblo.com](mailto:POI36871@isletapueblo.com)  
(505) 869-9819  
(505) 917-8346 mobile  
(505) 869-3030 Police Dispatch

- h. CGP at 2.2 Erosion and sediment control requirements: Erosion and sediment controls shall be designed to retain sediment on-site.
- i. CGP at 2.2 Under Sediment control requirements, Standard Permit Condition Duty to Mitigate Volumes of sediment at or over (five) 5 cubic yards must be removed and placed for disposal within a tribally approved sediment Disposal Site, located on Pueblo of Isleta lands. CGP 2.2 at pg. 8.
- j. Under Minimize erosion, a permittee must secure permission from the Pueblo or affected Pueblo of Isleta land assignment owner if a dissipation device needs to

be placed up- or down- elevation of a given construction site. CGP 2.2.11 at pg. 11.

- k. CGP at 2.3.6 Emergency spill notification requirements: You must notify the Pueblo of Isleta Water Quality Control Officer and National Response Center (NRC) [at (800) 424-8802 or, in the Washington, DC metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302] as soon as you have knowledge of the release. Verbal and electronic notice shall be provided as specified in I.12.6.1
- l. CGP at C.3 Equivalent analysis waiver: Parties wishing to apply for an Equivalent Analysis Waiver (see Appendix D, Section C) must provide a copy of the waiver analysis to the Pueblo of Isleta Water Quality Control Officer at the address indicated in 1.4.1 (a).

**9.4.2.2 Pueblo of Sandia.** The following conditions apply only to discharges on the Pueblo of Sandia Reservation:

- a. Only those activities specifically authorized by the CGP are authorized by the Pueblo of Sandia's Water Quality certification. The Pueblo of Sandia's Water Quality Certification does not authorize impact to cultural properties, historical sites or properties that may be eligible as such.
- b. Copies of all Notices of Intent (NOI) submitted to the EPA must also be sent concurrently to the Pueblo of Sandia at the following address. Discharges are not authorized by this permit unless an accurate and complete NOI has been submitted to the Pueblo of Sandia, either by mail or electronically.

Regular U.S. Delivery Mail:

Pueblo of Sandia Environment Department  
Attention: Scott Bulgrin, Water Quality Manager  
481 Sandia Loop  
Bernalillo, New Mexico 87004

Electronically:

sbulgrin@sandiapueblo.nsn.us

- c. Any correspondences between the applicant and EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident written reports should likewise be routed to the Pueblo of Sandia at the above address.
- d. The Stormwater Pollution Prevention Plan (SWPPP) must be available to the Pueblo of Sandia Environment Department either electronically or hard copy upon request for review. The SWPPP must be made available at least fourteen (14) days before construction begins. The fourteen (14) day period will give Pueblo staff time to become familiar with the project site, prepare for construction site inspections, and determine compliance with the Pueblo of Sandia Water Quality Standards. Failure to provide a SWPPP to the Pueblo of Sandia may result in the delay or denial of the construction project.
- e. If requested by the Pueblo of Sandia Environment Department, the permittee must provide additional information necessary for a case-by-case eligibility determination to assure compliance with the Pueblo of Sandia Water Quality Standards and/or applicable Federal Standards not authorized by this certification.
- f. An "Authorization to Proceed Letter" with site specific mitigation requirements may

be sent out to the permittee when a review of the NOI and SWPPP, on a case-by-case basis is completed by the Pueblo of Sandia Environment Department. This approval will allow the application to proceed if all mitigation requirements are met.

- g. The Pueblo of Sandia will not allow Small construction Waivers (Appendix C) or the Rainfall Erosivity Waiver (Appendix C.1) to be granted for any small construction activities.
- h. Before submitting a Notice of Termination (NOT) to the EPA, permittees must clearly demonstrate to the Pueblo of Sandia Environment Department through a site visit or documentation that requirements for site stabilization have been met and any temporary erosion control structures have been removed. A short letter stating the NOT is acceptable and all requirements have been met will be sent to the permittee to add to the permittee's NOT submission to EPA.
- i. Copies of all NOT submitted to the EPA must also be sent concurrently to the Pueblo of Sandia through the mail or electronically.

Regular U.S. Delivery Mail:

Pueblo of Sandia Environment Department  
Attention: Scott Bulgrin, Water Quality Manager  
481 Sandia Loop  
Bernalillo, New Mexico 87004

Electronically:

[sbulgrin@sandiapueblo.nsn.us](mailto:sbulgrin@sandiapueblo.nsn.us)

- j. The Pueblo of Sandia may require the permittee to perform water quality monitoring for pH, turbidity, and total suspended solids (TSS) during the permit term if the discharge is to a surface water leading to the Rio Grande for the protection of public health and the environment.

**9.4.2.3 Pueblo of Santa Ana.** The following conditions apply only to discharges on the Pueblo of Santa Ana Reservation:

- a. The permittee shall provide a copy of the Notice of Intent (NOI) to the Pueblo of Santa Ana (the Pueblo), at the same time it is submitted to the U.S. Environmental Protection Agency (EPA), for projects with discharges onto the lands of the Pueblo as defined in the Pueblo's antidegradation policy within the Pueblo of Santa Ana Water Quality Standards.
- b. The permittee shall provide a final copy of the Stormwater Pollution Prevention Plan (SWPPP) to the Pueblo that is associated with any project identified in the NOI, at the same time that an NOI is submitted to the EPA. The SWPPP should include any projects with discharges onto the lands of the Pueblo as defined in

the antidegradation policy within the Pueblo of Santa Ana Water Quality Standards.

- c. The operator shall provide copies of inspections reports and of corrective action reports to the Pueblo at the address below for review, upon request.
- d. Upon completion of the project identified in the NOI, the permittee will submit a Notice of Termination (NOT) to the Pueblo.
- e. All required or requested permittee specific information identified above shall be submitted to the following address:

Pueblo of Santa Ana Department of Natural Resources,  
Attention: Water Resources Division  
2 Dove Road  
Santa Ana Pueblo, NM 87004

- f. Discharges are not authorized by permittee unless an accurate and complete NOI and SWPPP have been submitted to the Pueblo. Failure to provide an accurate and complete NOI and SWPPP may result in a denial of the discharge permit or a delay in groundbreaking or construction.
- g. The permittee will not proceed with site work until authorized by the Pueblo. The Pueblo requires review of the complete and final SWPPP before authorization to proceed. The Pueblo will provide an "Authorization to Process" notice after review and approval of the SWPPP.
- h. The permittee could be required to perform water quality monitoring, sampling or analysis during the active permit dates for constituents determined by the Pueblo.
- i. Before submitting a NOT, permittees must certify to the Pueblo's Department of Natural Resources in writing that requirements for site stabilization have been met, and any temporary erosion control structures have been removed. Documentation of the Pueblo's review that such requirements have been reviewed and met will be provided for the permittee to add to the permittee's NOT submission to EPA. Copies of all NOT submitted to the EPA must also be sent to the Pueblo at the address provided above.

**9.4.2.4 Pueblo of Santa Clara.** The following conditions apply only to discharges on the Pueblo of Santa Clara Reservation:

- a. The operator must provide a copy of the Notice of Intent (NOI) and Notice of Termination (NOT) to the Santa Clara Pueblo Governor's Office at the same time it is provided to the US Environmental Protection Agency.
- b. A copy of the Storm water Pollution Prevention Plan shall be made available to the Pueblo of Santa Clara staff upon request.

**9.4.2.5 Pueblo of Tesuque.** The following conditions apply only to discharges on the Pueblo of Tesuque Reservation:

- a. Based on the Section 401 Certification provisions within the CWA, no discharges that will exceed or cause the exceedance of the Pueblo of Tesuque Water Quality Standards will be allowed within the boundaries of the Pueblo of Tesuque.
- b. The operator shall provide a copy of the Notice of Intent (NOI) to the Pueblo of Tesuque Governor's Office in care of the Department of Environmental and Natural Resources (DENR) at the same time it is submitted to the Environmental

Protection Agency, for projects occurring within the boundaries of Tesuque tribal lands. The operator shall also notify the Pueblo of Tesuque Governor's Office in care of the DENR when it submits the Notice of Termination (NOT), but not before the DENR post-construction inspection has been completed as described below. The NOI and NOT shall be sent to the following address:

Pueblo of Tesuque  
Office of the Governor  
Attn: DENR  
20 TP828 Administration Bldg.  
Santa Fe, NM 87506-5512

Alternatively, the operator may arrange with DENR to email the documents.

- c. The operator shall also provide a copy of the Stormwater Pollution Prevention Plan, copies of inspection reports, and copies of corrective action reports to the DENR.
- d. Construction requiring this permit will not commence until the above document submissions have been made and DENR provides the operator with notice to proceed. Operators will not demobilize until DENR personnel inspect the site for completion of stabilization. Once the inspection has taken place and all SWPPP-related work has been completed to the satisfaction of DENR, the operator will submit its NOT as described above and then demobilize.

**9.4.2.6 Taos Pueblo.** The following conditions apply only to discharges on the Taos Pueblo Reservation:

- a. The operator shall provide a copy of the Notice of Intent (NOI) to the Taos Pueblo Governor's Office, War Chief's Office and Environmental Office, at the same time it is submitted to the U.S. Environmental Protection Agency, for projects occurring within the exterior boundaries of Taos Pueblo. The operator shall also notify Taos Pueblo when it has submitted the Notice of Termination (NOT). The NOI and NOT shall be sent to the Taos Pueblo at the following addresses:
  - i. Taos Pueblo Governor's Office  
P.O. Box 1846  
Taos NM 87571
  - ii. Taos Pueblo War Chief's Office  
P.O. Box 2596  
Taos NM 87571
  - iii. Environmental Office  
Attn: Program Manger  
P.O. Box 1846  
Taos NM 87571

- b. Taos Pueblo requests that in the event Indian artifacts or human remains are inadvertently discovered on projects occurring near or on Taos Pueblo lands that consultation with the tribal Governor's Office occur at the earliest possible time.
- c. The operator shall provide a copy of the Stormwater Pollution Prevention Plan, copies of inspections reports, and copies of corrective action reports to staff in the Taos Pueblo Environmental Office for review and copy, upon request.

**9.4.2.7 Ohkay Owingeh.** The following conditions apply only to discharges on the Ohkay Owingeh Reservation:

- a. Prior to commencement of any construction activity on Ohkay Owingeh Lands requiring permit coverage under EPA's Construction General Permit, the operator(s) shall submit to Ohkay Owingeh Office of Environmental Affairs, a copy of the electronic "Notice of Intent," submitted to the Environmental Protection Agency, immediately following EPA's electronic notification that the NOI has been received. A copy of the Stormwater Pollution Prevention Plan(s) must be made available to the Ohkay Owingeh Office of Environmental Affairs upon the tribe's request either electronically or hard copy. Operator(s) shall also submit to Ohkay Owingeh Office of Environmental Affairs a copy of the electronic Notice of Termination (NOT) submitted to the Environmental Protection Agency. Documents shall be submitted to Ohkay Owingeh at the following address:

Ohkay Owingeh Office of Environment Affairs  
Attention: Environmental Programs Manager  
P.O. Box 717  
Ohkay Owingeh, New Mexico 87566  
Office # 505.852.4212  
Fax # 505.852.1432  
Electronic mail: [naomi.archuleta@ohkay.org](mailto:naomi.archuleta@ohkay.org)

- b. Ohkay Owingeh will not allow the Rainfall Erosivity Waivers (see Appendix C) to be granted for any small construction activities.
- c. All vegetation used to prevent soil loss, seeding or planting of the disturbed area(s) to meet the vegetative stabilization requirements must utilize native seeds/vegetation commonly known to the area. All temporary erosion control structures, such as silt fences must be removed as soon as stabilization requirements are met.

**9.4.2.8 Pueblo of Laguna.** The following conditions apply only to discharges on the Pueblo of Laguna Reservation:

- a. The operator must provide a paper and electronic copy of the Notice of Intent (NOI) and Notice of Termination (NOT) to the Pueblo of Laguna at the same time it is provided to the U.S. Environmental Protection Agency. The NOI and NOT should be provided to the following address:

Pueblo of Laguna, Office of the Governor  
Attn: Environmental & Natural Resources Department  
P.O. Box 194  
Laguna, NM 87026  
Email: [setter@pol-nsn.gov](mailto:setter@pol-nsn.gov)

- b. The operator must provide an electronic copy of the Storm Water Pollution

Prevention Plan to the Pueblo of Laguna Environmental Program at the same time the NOI is submitted to the above listed email addresses. Any correspondences between the applicant and EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident written reports threshold likewise be routed to the Pueblo of Laguna Environmental Program.

- c. Immediate initiation of consultation with the Pueblo of Laguna is required should any human remains or artifacts be unearthed during the project that fall under the Native American Graves Protection and Repatriation Act guidelines. If human remains are unearthed, contact the Pueblo of Laguna Police Department at 505.552.6666. If artifacts are unearthed, contact the Pueblo of Laguna Tribal Historic Preservation Office at 505.552.5033.

**9.4.2.9 Picuris Pueblo.** The following conditions apply only to discharges on the Picuris Pueblo Reservation:

- a. The operator, landowner and construction operators doing earth-disturbance work must meet the definition of "operator" under the Construction General Permit (CGP), and must provide an electronic and paper copy of the Notice of Intent (NOI) and Notice of Termination (NOT) to **both** The Office of the Picuris Pueblo Governor and the Picuris Pueblo Environmental Department at the same time it is provided to the U.S. Environmental Protection Agency (USEPA). The NOI and NOT should be provided to the following address:

Picuris Pueblo  
The Office of the Governor  
PO BOX 127  
Penasco, NM 87553  
575-587-2519  
575-587-1071 (Fax)  
Governor: [governor@picurispueblo.org](mailto:governor@picurispueblo.org)

Picuris Pueblo Environmental Department  
PO BOX 158  
Penasco, NM 87553  
575-587-0110  
575-587-0223 (Fax)  
Environmental Director: [environment@picurispueblo.org](mailto:environment@picurispueblo.org)

- b. The operator must provide an electronic copy of the Storm Water Pollution Prevention Plan to the Picuris Pueblo Environmental Department at least 30 days prior to submitting the NOI to USEPA and the Picuris Pueblo by email to Picuris Pueblo Environmental Department: [environment@picurispueblo.org](mailto:environment@picurispueblo.org).

**9.4.2.10 Pueblo of Pojoaque.** The following conditions apply only to discharges on the Pueblo of Pojoaque Reservation:

- a. The operator, landowner and construction operators doing earth-disturbance work must meet the definition of "operator" under the CGP and must provide a copy of the Notice of Intent (NOI) to the Pueblo of Pojoaque Governor's Office and Environmental Department within 3 days following U.S. Environmental Protection Agency's electronic confirmation that the NOI was certified and submitted and is undergoing its 14-day review period. Additionally, a copy of the Notice of Termination (NOT) must be provided the same day electronic confirmation is



received from the U.S. Environmental Protection Agency that the NOT has been accepted. The NOI and NOT should be provided to the following address:

Pueblo of Pojoaque  
Office of the Governor  
78 Cities of Gold Road  
Santa Fe, NM 87506

Pueblo of Pojoaque  
Environmental Department  
39 Camino Del Rincon  
Santa Fe, NM 87506

- b. The operator must provide an electronic copy of the Stormwater Pollution Prevention Plans to the Pueblo of Pojoaque Environmental Department by email to Adam L Duran ([aduran@pojoaque.org](mailto:aduran@pojoaque.org)) at least 30 days prior to submitting the NOI to EPA and the Pueblo of Pojoaque.

**9.4.2.11 Nambe Pueblo.** The following conditions apply only to discharges on Nambe Pueblo:

- a. The operator must provide a copy of the Notice of Intent (NOI) and Notice of Termination (NOT) to the Nambe Pueblo Governor's Office at the same time it is provided to the US Environmental Protection Agency. The NOI and NOT should be provided to the following address:

Office of the Governor  
Nambe Pueblo  
15A NP102 WEST  
Nambe Pueblo, NM 87506

- b. The operator must provide a copy of the Stormwater Pollution Prevention Plan to Nambe Pueblo at the same time it is submitted to the EPA, either by email to [srydeen@nambepueblo.org](mailto:srydeen@nambepueblo.org) or mailed to the above address.

**9.4.3 OKR10I000 Indian country within the State of Oklahoma**

**9.4.3.1 Pawnee Nation.** The following conditions apply only to discharges within Pawnee Indian country:

- a. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pawnee Nation at the same time it is submitted to the Environmental Protection Agency to the following address:

Pawnee Nation Department of Environmental Conservation and Safety  
P.O. Box 470  
Pawnee, OK 74058  
Or email to [mmatlock@pawneenation.org](mailto:mmatlock@pawneenation.org)

- b. The Storm Water Pollution Prevention Plan must be available to Departmental inspectors upon request.
- c. The Department must be notified at 918-762-3655 immediately upon discovery of any noncompliance with any provision of the permit conditions.

**9.4.4 OKR10F000 Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09).**

- a. For activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Lee Creek or any water or watershed designated "ORW" in Oklahoma's Water Quality Standards, this permit may only be used to authorize discharges from temporary construction activities. Certification is denied for any on-going activities such as sand and gravel mining or any other mineral mining.
- b. For activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Lee Creek or any water or watershed designated "ORW" in Oklahoma's Water Quality Standards, certification is denied for any discharges originating from support activities, including concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas.
- c. In order to comply with Oklahoma's Water Quality Standards, these conditions and restrictions also apply to any construction projects located wholly or partially on Indian Country lands within the State of Oklahoma.

**9.5 EPA Region 8**

**9.5.1 COR10I000 Indian country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico.**

**9.5.1.1 The Ute Mountain Ute Tribe.** The following conditions apply only to discharges on the Ute Mountain Ute Reservation.

- a. Permittees must send the Stormwater Pollution Prevention Plan (SWPPP) to the Tribal Environmental Department for review and approval at least 30 days before construction starts.
- b. Before submitting the Notice of Termination (NOT), permittees must clearly demonstrate to the Tribal Environmental Department during an on-site inspection that requirements for site stabilization have been met.
- c. The permittee must send a copy of the Notice of Intent (NOI) and the Tribal Environmental Department.
- d. Permittees may submit their SWPPPs and NOI and NOT requests electronically to: [clarrick@utemountain.org](mailto:clarrick@utemountain.org).
- e. Written NOIs, SWPPPs, and NOTs may be mailed to:

Colin Larrick, Water Quality Program Manager  
Ute Mountain Ute Tribe  
Environmental Department  
P.O. Box 448  
Towaoc, CO 81334

**9.5.2 MTR10I000 Indian country within the State of Montana**

**9.5.2.1 The Confederated Salish and Kootenai Tribes of the Flathead Nation.** The following conditions apply only to discharges on the Confederated Salish and Kootenai Tribes of the Flathead Nation Reservation:

- a. Permittees must submit the Stormwater Pollution Prevention Plan (SWPPP) to the Confederated Salish and Kootenai Tribes at least 30 days before construction starts.
- b. Before submitting the Notice of Termination (NOT), permittees must clearly demonstrate to an appointed Tribal staff person during an onsite inspection that requirements for site stabilization have been met.
- c. The permittee must send a copy of the Notice of Intent (NOI) and the NOT to CSKT.
- d. Permittees may submit their SWPPPs, NOIs and NOTs electronically to: [clintf@cskt.org](mailto:clintf@cskt.org).
- e. Written SWPPPs, NOIs and NOTs may be mailed to:

Clint Folden, Water Quality Regulatory Specialist  
Confederated Salish and Kootenai Tribes  
Natural Resources Department  
P.O. Box 278  
Pablo, MT 59855

**9.6 EPA Region 9**

**9.6.1 AZR10I000 Indian Country within the state of Arizona, as well as Navajo Nation lands in New Mexico and Utah**

**9.6.1.1 Navajo Nation.** The following conditions apply only to discharges on the Navajo Nation reservation:

- a. Courtesy copies of Notice of Intents and stormwater pollution prevention plans shall be made available to Navajo EPA.
- b. Copies of all monitoring reports must be provided to Navajo EPA.
- c. Facilities covered under the CGP will be subject to compliance inspections by Navajo EPA staff with active Federal Inspector Credentials under the authority of the Clean Water Act.
- d. Specific awareness and adherence to Sections 201 – Anti-degradation Policy, 203 – Narrative WQS, and 207.H - Turbidity.

**9.6.2 CAR10I000 Indian country within the State of California**

**9.6.2.1 Twenty-Nine Palms Band of Mission Indians.** The following conditions apply only to discharges on the Twenty-Nine Palms Band of Mission Indians Reservation:

- a. At the time the applicant submits its Notice of Intent (NOI) to the EPA, the applicant must concurrently submit written notification of the NOI and a copy of the Stormwater Pollution Prevention Plan (SWPPP) to the Twenty-Nine Palms Band of Mission Indians at the address below:

Tribal Environmental Coordinator  
Twenty-Nine Palms Band of Mission Indians  
46-200 Harrison Place

Coachella, CA 92236

- b. The applicant must also concurrently submit to the Tribal Environmental Coordinator written notification of any other forms or information submitted to the EPA, including waivers, reporting, and Notice of Termination (NOT).
- c. Permitted entities under the CGP must keep the Tribal EPA informed of authorized discharges under the CGP by submitting written information about the type, quantity, frequency and location, intended purpose, and potential human health and/or environmental effects of their activities. These requirements are pursuant to Section 4 of the Twenty-Nine Palms Band of Mission Indians Water Pollution Control Ordinance (022405A). This information may be submitted to Tribal EPA in the form of Stormwater Pollution Prevention Plans (SWPPPs), monitoring reports, or other reports as required under the CGP. Spills, leaks, or unpermitted discharges must be reported in writing to Tribal EPA within 24 hours of the incident.

**9.6.2.2 Morongo Band of Mission Indians.** The following conditions apply only to discharges on the Morongo Band of Mission Indians Reservation:

- a. This certification does not exempt, and is provisional upon compliance with, other applicable statutes and codes administered by federal and tribal agencies. Pursuant to the Morongo Band of Mission Indians Surface Water Quality Protection Ordinance (Ordinance 39), all unpermitted discharges must be reported to the Morongo Band of Mission Indians Environmental Protection Department (Morongo EPD) within 24 hours of the incident.
- b. Each operator shall submit a signed hard copy of the Notice of Intent (NOI) and stormwater pollution prevention plan (SWPPP) to the Morongo EPD at the same time it is submitted electronically to the EPA.
- c. The operator shall allow the Morongo EPD or its designee to inspect and sample at the construction site as needed.

Correspondence should be submitted to:

Morongo Band of Mission Indians  
Environmental Protection Department  
12700 Pumarra Road  
Banning, CA 92220  
Phone: (951) 755-5128  
Email: [epd@morongo-nsn.gov](mailto:epd@morongo-nsn.gov)

**9.6.3 GUR100000 Island of Guam.** The following conditions apply only to discharges on the Island of Guam:

- a. Any earth-moving operations which require a permit must be obtained from the Department of Public Works (DPW) with clearance approval from various Government of Guam Agencies including Guam EPA prior to the start of any earth-moving activity.
- b. In the event that the construction sites are within the Guam Sole Source Aquifer, the construction site owner and operator must consider opportunities to facilitate groundwater recharge for construction and post-construction implementing infiltration Best Management Practices. Stormwater disposal systems shall be designed and operated within the boundaries of the project. Stormwater systems shall not be permitted within any Wellhead Protection Zone unless the discharge meets the Guam Water Quality Standards within the zone. Waters discharged

within the identified category G-2 recharge zone shall receive treatment to the degree required to protect the drinking water quality prior to it entering the category G-1 resource zone.

- c. All conditions and requirements set forth in the 22 Guam Administrative Rules and Regulations (GARR), Division II, Water Control, Chapter 10, Guam Soil Erosion and Sediment Control Regulations (GSESCR) that are more protective than the CGP regarding construction activities must be complied with.
- d. All standards and requirements set forth in the 22 GARR, Division II, Water Control, Chapter 5, *Guam Water Quality Standards (GWQS) 2001 Revisions*, must be complied with to include reporting GWQS exceedance to Guam EPA.
- e. All operators/owners of any property development or earth moving activities shall comply with the erosion control pre-construction and post-construction BMP design performance standards and criteria set forth in the 2006 CNMI and Guam Stormwater Management Manual.
- f. All conditions and requirements regarding dewatering activities set forth in 22 Guam Administrative Rules and Regulations Chapter 7, Water Resources Development and Operating Regulations must be complied with to include securing permits with Guam EPA prior to the start of any dewatering activities.
- g. If a project to be developed is covered under the Federal Stormwater Regulations (40 CFR Parts 122 & 123), a Notice of Intent (NOI) to discharge stormwater to the surface and marine waters of Guam must be submitted to the U.S. EPA and a copy furnished to Guam EPA, pursuant to Section 10, 104(B)(5)(d) 22GAR, Division II, Chapter 10.
- h. Guam EPA shall apply the Buffer Requirements listed in Appendix G of the CGP NPDES Permit for construction activities as it pertains to Waters of the U.S. in Guam. Guam EPA shall also apply the same buffer requirements for sinkholes in Guam.
- i. When Guam EPA, through its permit review process, identifies that the proposed construction activity is close proximity to marine waters, contractors and owners will be informed that any activity that may impair water quality are required to stop during peak coral spawning periods as per the Guam Coral Spawning Construction Moratoriums.
- j. The Proposed Construction General Permit must set appropriate measures and conditions to protect Guam's Threatened and Endangered Species and Outstanding Resource Waters of exceptional recreational or ecological significance as determined by the Guam EPA Administrator as per *Guam Water Quality Standards 2001 Revisions*, §5102, Categories of Waters, D. Outstanding Resource Waters.
- k. When Guam EPA through its permit review process identifies that proposed construction activity is in close proximity to any Section 303d impaired waters, which includes marine waters and surface waters, shall ensure that construction activity does not increase the impaired water's ambient parameters.
- l. When Rainfall Erosivity and TMDL Waivers reflected in the CGP, Appendix C, are submitted to the U.S. EPA, Guam EPA will review waivers on a project by project basis.
- m. Prior to submission of the Notice of Termination (NOT) to the U.S. EPA, permittees must clearly demonstrate to Guam EPA that the project site has met all soil

stabilization requirements and removal of any temporary erosion control as outlined in the GSESCR.

## 9.7 EPA Region 10

### 9.7.1 IDR100000 State of Idaho, except Indian country

a. Idaho's Antidegradation Policy. The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

1. Tier I Protection. The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier 1 review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.05).
2. Tier II Protection. The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).
3. Tier III Protection. The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities not cause a lowering of water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier I protection for that use, unless specific circumstances warranting Tier II protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

b. Pollutants of Concern. The primary pollutants of concern associated with stormwater discharges from construction activities are sediment, typically measured as total suspended solids and turbidity. Other potential pollutants include the following: phosphorus, nitrogen, pesticides, organics, metals, PCBs, petroleum products, construction chemicals, and solid wastes.

c. Receiving Water Body Level of Protection. The CGP provides coverage to construction activities throughout the entire State of Idaho. Because of the statewide applicability, all of the jurisdictional waters within Idaho could potentially receive discharges either directly or indirectly from activities covered under the CGP. DEQ applies a water body by water body approach to determine the level of antidegradation a water body will receive.

All waters in Idaho that receive discharges from activities authorized under the CGP will receive, at minimum Tier I antidegradation protection because Idaho's antidegradation policy applies to all waters of the state. Water bodies that fully support their aquatic life or recreational uses are considered to be *high quality waters* and will receive Tier II antidegradation protection.

Although Idaho does not currently have any Tier III designated outstanding resource waters (ORWs) designated, it is possible for a water body to be designated as an ORW during the life of the CGP. Because of this potential, the antidegradation review also assesses whether the permit complies with the

outstanding resource water requirements of Idaho's antidegradation policy.

To determine the support status of the receiving water body, persons filing a Notice of Intent (NOI) for coverage under this general permit must use the most recent EPA-approved Integrated Report, available on Idaho DEQ's website:

<http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/>.

High quality waters are identified in Categories 1 and 2 of the Integrated Report. If a water body is in either Category 1 or 2, it is a Tier II water body.

Unassessed waters are identified as Category 3 of DEQ's Integrated Report. These waters require a case-by-case determination to be made by DEQ based on available information at the time of the application for permit coverage. If a water body is unassessed, the applicant is directed to contact DEQ for assistance in filing the NOI.

Impaired waters are identified in Categories 4 and 5 of the Integrated Report. Category 4(a) contains impaired waters for which a TMDL has been approved by EPA. Category 4(b) contains impaired waters for which controls other than a TMDL have been approved by EPA. Category 5 contains waters which have been identified as "impaired," for which a TMDL is needed. These waters are Tier I waters, for the use which is impaired. With the exception, if the aquatic life uses are impaired for any of these three pollutants—dissolved oxygen, pH, or temperature—and the biological or aquatic habitat parameters show a health, balanced biological community, then the water body shall receive Tier II protection, in addition to Tier I protection, for aquatic life uses (IDAPA 58.01.02.052.05.c.i.).

DEQ's webpage also has a link to the state's map-based Integrated Report which presents information from the Integrated Report in a searchable, map-based format: <http://www.deq.idaho.gov/assistance-resources/maps-data/>.

Water bodies can be in multiple categories for different causes. If assistance is needed in using these tools, or if additional information/clarification regarding the support status of the receiving water body is desired, the operator is directed to make contact with the appropriate DEQ regional office of the State office in the table below:

<b>Regional and State Office</b>	<b>Address</b>	<b>Phone Number</b>	<b>Email</b>
Boise	1445 N. Orchard Rd., Boise 83706	208-373-0550	<a href="mailto:Kati.carberry@deq.idaho.gov">Kati.carberry@deq.idaho.gov</a>
Coeur d'Alene	2110 Ironwood Parkway, Coeur D'Alene 83814	208-769-1422	<a href="mailto:June.bergquist@deq.idaho.gov">June.bergquist@deq.idaho.gov</a>
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls 83402	208-528-2650	<a href="mailto:Troy.saffle@deq.idaho.gov">Troy.saffle@deq.idaho.gov</a>

Lewiston	1118 "F" St., Lewiston 83501	208-799- 4370	<a href="mailto:Mark.sellet@deq.idaho.gov">Mark.sellet@deq.idaho.gov</a>
Pocatello	444 Hospital way, #300 Pocatello 83201	208-236- 6160	<a href="mailto:Lynn.vanevery@deq.idaho.gov">Lynn.vanevery@deq.idaho.gov</a>
Twin Falls	650 Addison Ave., W., Suite 110, Twin Falls 83301	208-736- 2190	<a href="mailto:Balthasar.buhidar@deq.idaho.gov">Balthasar.buhidar@deq.idaho.gov</a>
State Office	1410 N. Hilton Rd., Boise 83706	208-373- 0502	<a href="mailto:Nicole.deinarowicz@deq.idaho.gov">Nicole.deinarowicz@deq.idaho.gov</a>

- d. *Turbidity Monitoring*. The permittee must conduct turbidity monitoring during construction activities and thereafter on days where there is a direct discharge of pollutants from an unstabilized portion of the site which is causing a visible plume to a water of the U.S.

A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field (preferred method), but grab samples may be collected and taken to a laboratory for analysis. If the permittee can demonstrate that there will be no direct discharge from the construction site, then turbidity monitoring is not required. When monitoring is required, a sample must be taken at an undisturbed area immediately upstream of the project area to establish background turbidity levels for the monitoring event. Background turbidity, location, date and time must be recorded prior to monitoring downstream of the project area. A sample must also be taken immediately downstream from any point of discharge and *within* any visible plume. The turbidity, location, date and time must be recorded. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

Results from the compliance point sampling or observation<sup>78</sup> must be compared to the background levels to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more than the upstream turbidity, then the project is causing an exceedance of WQS. Any exceedance of the turbidity standard must be reporting to the appropriate DEQ regional office within 24 hours. The following six (6) steps should be followed to ensure compliance with the turbidity standard:

1. If a visible plume is observed, quantify the plume by collecting turbidity measurements from within the plume and compare the results to Idaho's instantaneous numeric turbidity criterion (50 NTU over the background).

<sup>78</sup> A visual observation is only acceptable to determine whether BMPs are functioning properly. If a plume is observed, the project may be causing an exceedance of WQS and the permittee must collect turbidity data and inspect the condition of the projects BMPs. If the BMPs appear to be functioning to their fullest capability and the turbidity is 50 NTUs or more than the upstream turbidity, then the permittee must modify the activity or implement additional BMPs (this may also include modifying existing BMPs).



2. If turbidity is less than 50 NTU instantaneously over the background turbidity; continue monitoring as long as the plume is visible. If turbidity exceeds background turbidity by more than 50 NTU instantaneously then stop all earth disturbing construction activities and proceed to step 3.
3. Take immediate action to address the cause of the exceedance. That may include inspection the condition of project BMPs. If the BMPs are functioning to their fullest capability, then the permittee must modify project activities and/or BMPs to correct the exceedance.
4. Notify the appropriate DEQ regional office within 24 hours.
5. Possibly increase monitoring frequency until state water quality standards are met.
6. Continue earth disturbing construction activities once turbidity readings return to within 50 NTU instantaneously and 25 NTU for more than ten consecutive days over the background turbidity.

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The report must describe all exceedances and subsequent actions taken, including the effectiveness of the action.

- e. Reporting of Discharges Containing Hazardous Materials or Petroleum Products. All spills of hazardous material, deleterious material or petroleum products which may impact waters (ground and surface) of the state shall be immediately reported. Call 911 if immediate assistance is required to control, contain or clean up the spill. If no assistance is needed in cleaning up the spill, contact the appropriate DEQ regional office in the table below during normal working hours or Idaho State Communications Center after normal working hours. If the spilled volume is above federal reportable quantities, contact the National Repose Center.

For immediate assistance: Call 911

National Response Center: (800) 424-8802

Idaho State Communications Center: (208) 632-8000

Regional office	Toll Free Phone Number	Phone Number
Boise	888-800-3480	208-373-0321
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	977-547-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

**9.7.2 IDR10I000 Indian country within the State of Idaho, except Duck Valley Reservation lands (see Region 9)**

**9.7.2.1 Shoshone-Bannock Tribes.** The following conditions apply only to discharges on the Shoshone-Bannock Reservation:

- f. Each operator shall submit a signed hard copy of the Notice of Intent (NOI) to the Shoshone-Bannock Tribes Water Resources Department at the same time it is

submitted electronically to the Environmental Protection Agency (EPA) and shall provide the Shoshone-Bannock Tribes Water Resources Department the acknowledgement of receipt of the NOI from the EPA within 7 calendar days of receipt from the EPA.

**9.7.3 WAR10F000 Areas in the State of Washington, except those located on Indian country, subject to construction activity by a Federal Operator.** The following conditions apply only to discharges on federal facilities in the State of Washington:

- a. Discharges shall not cause or contribute to a violation of surface water quality standards (Chapter 173-201A WAC), groundwater quality standards (Chapter 173-200 WAC), sediment management standards (Chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (40 CFR Part 131.36). Discharges that are not in compliance with these standards are not authorized.
- b. Prior to the discharge of stormwater and non-storm water to waters of the State, the Permittee must apply all known, available, and reasonable methods of prevention, control, and treatment (AKART). This includes the preparation and implementation of an adequate SWPPP, with all appropriate BMPs installed and maintained in accordance with the SWPPP and the terms and conditions of this permit.
- c. Permittees who discharge to segments of waterbodies listed as impaired by the State of Washington under Section 303(d) of the Clean Water Act for turbidity, fine sediment, phosphorus, or pH must comply with the following numeric effluent limits:

Parameter Identified in 303(d) Listing	Parameter Sampled	Unit	Analytical Method	Numeric Effluent Limit
<ul style="list-style-type: none"> <li>• Turbidity</li> <li>• Fine Sediment</li> <li>• Phosphorus</li> </ul>	Turbidity	NTU	SM2130 or EPA 180.1	25 NTUs at the point where the stormwater is discharged from the site.
High pH	pH	Su	pH meter	In the range of 6.5 – 8.5

- d. All references and requirements associated with Section 303(d) of the Clean Water Act mean the most current EPA approved listing of impaired waters that exists on February 16, 2017, or the date when the operator's complete permit application is received by EPA, whichever is later.
- e. Discharges to waterbodies subject to an applicable Total Maximum Daily Load (TMDL) for turbidity, fine sediment, high pH, or phosphorus, shall be consistent with the assumptions and requirements of the TMDL.
  - i. Where an applicable TMDL sets specific waste load allocations or requirements for discharges covered by this permit, discharges shall be consistent with any specific waste load allocations or requirements establish by the applicable TMDL.
  - ii. Where an applicable TMDL has established a general waste load allocation for construction stormwater discharges, but no specific requirements have been identified, compliance with this permit will be assumed to be consistent with the approved TMDL.

- iii. Where an applicable TMDL has not specified a waste load allocation for construction stormwater discharges, but has not excluded these discharges, compliance with this permit will be assumed to be consistent with the approved TMDL.
- iv. Where an applicable TMDL specifically precludes or prohibits discharges from construction activity, the operator is not eligible for coverage under this permit.
- v. Applicable TMDL means a TMDL for turbidity, fine sediment, high pH, or phosphorus, which has been completed and approved by EPA prior to February 16, 2017, or prior to the date the operator's complete NOI is received by EPA, whichever is later.

**9.7.4 WAR10I000 Indian country within the State of Washington**

**9.7.4.1 Confederated Tribes of the Colville Reservation.** The following conditions apply only to discharges on the Colville Indian Reservation (CIR) and on other Tribal trust lands or allotments of the Confederated Tribes of the Colville Reservation:

- a. A copy of the Stormwater Pollution Prevention Plan must be submitted to the following office at least thirty (30) days in advance of sending the Notice of Intent (NOI) to EPA:

Environmental Trust Department  
Confederated Tribes of the Colville Reservation  
PO Box 150  
Nesepalem, WA 99155

- b. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be sent to the ETD at the same time they are submitted to EPA.
- c. Discharges to Omak Creek, the Okanogan River, and Columbia River downstream of Chief Joseph Dam may affect threatened or endangered species, and shall only be permitted in adherence with Appendix D of the CGP.
- d. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Chapter 4-8 Water Quality Standards of the Colville Law and Order Code, as amended.
- e. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the CIR. All spills must be reported to the appropriate emergency management agency and the ETD, and measures shall be taken immediately to prevent the pollution of waters of the CIR, including groundwater.
- f. Stormwater site inspections shall be conducted at least once every 7 calendar days, within 24-hours of the occurrence of a rain event of 0.25 inches or greater in a 24-hour period, and daily during periods of saturated ground surface or snowmelt with accompanying surface runoff.
- g. Results of discharge sampling must be reported to the ETD within 7 days of sample collection. All sample reporting must include the date and time, location, and individual performing the sampling.
- h. Any corrective action reports that are required under the CGP must be submitted to the ETD at the above address within one (1) working day of the report completion.

- i. This certification does not authorize impacts to cultural, historical, or archeological features or sites, or proprieties that may be eligible for such listing.

**9.7.4.2 Lummi Nation.** The following conditions apply only to discharges on the Lummi Reservation:

- a. The Lummi Nation reserves the right to modify this 401 certification if the final version of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (CGP) on tribal lands in the State of Washington (Permit No. WAR10I000) is substantively different than the draft version of the proposed permit that was made available for public comments during April 2016. The Lummi Nation will determine if the final version of the NPDES CGP is substantively different than the draft version following review of the final version once the EPA makes it available.
- b. This certification does not exempt and is provisional upon compliance with other applicable statutes and codes administered by federal and Lummi tribal agencies. Pursuant to Lummi Code of Laws (LCL) 17.05.020(a), the operator must also obtain a land use permit from the Lummi Planning Department as provided in Title 15 of the Lummi Code of Laws and regulations adopted thereunder.
- c. Pursuant to LCL 17.05.020(a), each operator shall develop and submit a Storm Water Pollution Prevention Plan to the Lummi Water Resources Division for review and approval by the Water Resources Manager prior to beginning any discharge activities.
- d. Pursuant to LCL Title 17, each operator shall be responsible for achieving compliance with the Water Quality Standards for Surface Waters of the Lummi Indian Reservation (Lummi Administrative Regulations [LAR] 17 LAR 07.010 through 17 LAR 07.210 together with supplements and amendments thereto).
- e. Each operator shall submit a signed hard copy of the Notice of Intent (NOI) to the Lummi Water Resources Division at the same time it is submitted electronically to the Environmental Protection Agency (EPA) and shall provide the Lummi Water Resources Division the acknowledgement of receipt of the NOI from the EPA and the associated NPDES tracking number provided by the EPA within 7 calendar days of receipt from the EPA.
- f. Each operator shall submit a signed hard copy of the Notice of Termination (NOT) to the Lummi Water Resources Division at the same time it is submitted electronically to the EPA and shall provide the Lummi Water Resources Division the EPA acknowledgement of receipt of the NOT.
- g. Storm Water Pollution Prevention Plans, Notice of Intent, Notice of Termination and associated correspondence with the EPA shall be submitted to:

Lummi Natural Resources Department  
ATTN: Water Resources Manager  
2665 Kwina Road  
Bellingham, WA 98226-9298

**9.7.4.3 Makah Tribe.** The following conditions apply only to discharges on the Makah Reservation:

- a. The operator shall be responsible for achieving compliance with the Makah Tribe's Water Quality Standards.

- b. The operator shall submit a Storm Water Pollution Prevention Plan to the Makah Tribe Water Quality Program and Makah Fisheries Habitat Division for review and approval at least thirty (30) days prior to beginning any discharge activities.
- c. The operator shall submit a copy of the Notice of Intent to the Makah Tribe Water Quality Program and Makah Fisheries Habitat Division at the same time it is submitted to EPA.
- d. Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Aaron Parker  
Makah Fisheries Management Water Quality Specialist  
(360) 645-3162  
Cell 206-356-0319  
[Aaron.parker@makah.com](mailto:Aaron.parker@makah.com)  
PO Box 115  
Neah Bay WA 98357

**9.7.4.4 Puyallup Tribe of Indians.** The following conditions apply only to discharges on the Puyallup Tribe of Indians Reservation:

- a. Each permittee shall be responsible for achieving compliance with the Puyallup Tribe's Water Quality Standards, including antidegradation provisions. The Puyallup Natural Resources Department will conduct an antidegradation review for permitted activities that have the potential to lower water quality. The antidegradation review will be consistent with the Tribe's Antidegradation Implementation Procedures. The Tribe may also impose additional controls on a site-specific basis, or request EPA to require the operator obtain coverage under an individual permit, if information in the NOI or from other sources indicates that the operator's discharges are not controlled as necessary to meet applicable water quality standards.
- b. The permittee shall be responsible for meeting any additional permit requirements imposed by EPA necessary to comply with the Puyallup Tribe's antidegradation policies if the discharge point is located within 1 linear mile upstream of waters designated by the Tribe.
- c. Each permittee shall submit a copy of the Notice of Intent (NOI) to be covered by the general permit to Char Naylor ([char.naylor@puyalluptribe.com](mailto:char.naylor@puyalluptribe.com)) and Russ Ladley ([russ.ladley@puyalluptribe.com](mailto:russ.ladley@puyalluptribe.com)) by email or at the address listed below at the same time it is submitted to EPA.

Puyallup Tribe of Indians  
3009 E. Portland Avenue  
Tacoma, WA 98404  
ATTN: Russ Ladley and Char Naylor

- d. All supporting documentation and certifications in the NOI related to coverage under the general permit for Endangered Species Act purposes shall be submitted to the Tribe's Resource Protection Manager ([russ.ladley@puyalluptribe.com](mailto:russ.ladley@puyalluptribe.com)) and Char Naylor ([char.naylor@puyalluptribe.com](mailto:char.naylor@puyalluptribe.com)) for review.
- e. If EPA requires coverage under an individual or alternative permit, the permittee shall submit a copy of the permit to Russ Ladley and Char Naylor at the address listed above.

- f. The permittee shall submit all stormwater pollution prevention plans to Char Naylor for review and approval prior to beginning any activities resulting in a discharge to tribal waters.
- g. The permittee shall conduct benchmark monitoring for turbidity (or transparency) and, in the event of significant concrete work or engineered soils, pH monitoring as well. Monitoring, benchmarks, and reporting requirements contained in Condition S.4. (pp.13-20) of the Washington State Construction Stormwater General Permit, effective January 1, 2016, shall apply, as applicable.
- h. The permittee shall notify Char Naylor (253-680-5520) and Russ Ladley (253-680-5560) prior to conducting inspections at construction sites generating storm water discharged to tribal waters.
- i. Treat dewatering discharges with controls necessary to minimize discharges of pollutants in order to minimize the discharge of pollutants to groundwater or surface waters from stormwater that is removed from excavations, trenches, foundations, vaults, or other storage areas. Examples of appropriate controls include sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, and filtration systems (e.g., bag or sand filters) that are designed to remove sediment.

To the extent feasible, utilize vegetated, upland areas of the site to infiltrate dewatering water before discharge. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.2.11 of EPA's 2016 General Construction Stormwater Permit. Examples of velocity dissipation devices include check dams, sediment traps, riprap, and grouted riprap at outlets.

- j. The permittee shall provide and maintain natural buffers to the maximum extent possible (and/or equivalent erosion and sediment controls) when tribal waters are located within 100 feet of the site's earth disturbances. If infeasible to provide and maintain an undisturbed 100 foot natural buffer, erosion and sediment controls to achieve the sediment load reduction equivalent to a 100-foot undisturbed natural buffer shall be required.

**9.7.4.5 Spokane Tribe of Indians.** The following conditions apply only to discharges on the Spokane Tribe Reservation:

- a. Pursuant to Tribal Law and Order Code (TLOC) Chapter 30 each operator shall be responsible for achieving compliance with the Surface Water Quality Standards of the Spokane Tribe. The operator shall notify the Spokane Tribe, Water Control Board (WCB) of any spills of hazardous material and;
- b. Each operator shall submit a signed hard copy of the Notice of Intent (NOI) to the WCB at the same time it is submitted to EPA.
- c. The permittee shall allow the Tribal Water Control Board or its designee to inspect and sample at the construction site as needed.
- d. Each operator shall submit a signed copy of the Notice of Termination (NOT) to the WCB at the same time it is submitted to EPA.

The correspondence address for the Spokane Tribe Water Control Board is:

Water Control Board  
c/o. Brian Crossley  
PO Box 480  
Wellpinit WA 99040

(509)626-4409  
[crossley@spokanetribe.com](mailto:crossley@spokanetribe.com)

**9.7.4.6 Swinomish Indian Tribal Community.** The following conditions apply only to discharges on the Swinomish Reservation:

- a. Owners and operators seeking coverage under this permit who intend to discharge to Regulated Surface Waters must submit a copy of the Notice of Intent (NOI) to the DEP at the same time the NOI is submitted to EPA.
- b. Owners and operators seeking coverage under this permit must also submit a Stormwater Pollution Prevention Plan to the DEP for review and approval by DEP prior to beginning any discharge activities.
- c. Owners and operators must also submit to the DEP Changes in NOI and/or Notices of Termination at the same time they are submitted to EPA.

**9.7.4.7 Tulalip Tribes.** The following conditions apply only to discharges on the Tulalip Reservation:

- a. This certification does not exempt and is provisional upon compliance with other applicable statutes and codes administered by federal and Tulalip tribal agencies. Pursuant to Tulalip Tribes code of law, the operator must also obtain a land use permit from the Tulalip Tribes Planning Department as provided in Title 7 of the Tulalip Tribal Code (<http://www.codepublishing.com/WA/Tulalip/?Tulalip02/Tulalip0205.html>).
- b. Each CGP operator shall be responsible for achieving compliance with Tulalip Tribes Water Quality Standards.
- c. Each CGP operator shall submit their Stormwater Pollution Prevention Plan (SWPPP) to the:

Tulalip Natural & Cultural Resources Department  
Tulalip Tribes  
6406 Marine Drive  
Tulalip, WA 98271

## Appendix A - Definitions and Acronyms

### 1. Definitions

"Action Area" – all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. See 50 CFR 402. For the purposes of this permit and for application of the threatened and endangered species protection eligibility requirements, the following areas are included in the definition of action area:

- The areas on the construction site where stormwater discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes stormwater to flow into a small wetland or other habitat that is on the site that contains listed species.)
- The areas where stormwater discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where stormwater flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as listed amphibians) are found in the ditch, swale, or gully.)
- The areas where stormwater from construction activities discharges into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where stormwater from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- The areas where stormwater controls will be constructed and operated, including any areas where stormwater flows to and from the stormwater controls. (Example: Where a stormwater retention pond would be built.)
- The areas upstream and/or downstream from the stormwater discharge into a stream segment that may be affected by these discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

"Agricultural Land" - cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

"Antidegradation Policy" or "Antidegradation Requirements" - the water quality standards regulation that requires states and tribes to establish a three-tiered antidegradation program:

1. Tier 1 maintains and protects existing uses and water quality conditions necessary to support such uses. An existing use can be established by demonstrating that fishing, swimming, or other uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur. Where an existing use is established, it must be protected even if it is not listed in the water quality standards as a designated use. Tier 1 requirements are applicable to all surface waters.
2. Tier 2 maintains and protects "high quality" waters -- waterbodies where existing conditions are better than necessary to support CWA § 101(a)(2) "fishable/swimmable" uses. Water quality can be lowered in such waters. However, state and tribal Tier 2 programs identify procedures that must be followed and questions that must be



answered before a reduction in water quality can be allowed. In no case may water quality be lowered to a level which would interfere with existing or designated uses.

3. Tier 3 maintains and protects water quality in outstanding national resource waters (ONRWs). Except for certain temporary changes, water quality cannot be lowered in such waters. ONRWs generally include the highest quality waters of the United States. However, the ONRW classification also offers special protection for waters of exceptional ecological significance, i.e., those which are important, unique, or sensitive ecologically. Decisions regarding which water bodies qualify to be ONRWs are made by states and authorized Indian tribes.

"Arid Areas" – areas with an average annual rainfall of 0 to 10 inches.

"Bank" (e.g., stream bank or river bank) – the rising ground bordering the channel of a water of the U.S.

"Bluff" – a steep headland, promontory, riverbank, or cliff.

"Borrow Areas" – the areas where materials are dug for use as fill, either onsite or off-site.

"Business day" – for the purposes of this permit, a business day is a calendar day on which construction activities will take place.

"Bypass" – the intentional diversion of waste streams from any portion of a treatment facility. See 40 CFR 122.41(m)(1)(i).

"Cationic Treatment Chemical" – polymers, flocculants, or other chemicals that contain an overall positive charge. Among other things, they are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other soil materials and causing them to bind together and settle out. Common examples of cationic treatment chemicals are chitosan and cationic PAM.

"Commencement of Construction Activities" – the initial disturbance of soils (or 'breaking ground') associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material; placement of raw materials at the site).

"Common Plan of Development or Sale" – A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The "common plan" of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

"Construction Activities" – earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g., stockpiling of fill material; placement of raw materials at the site) that could lead to the generation of pollutants. Some of the types of pollutants that are typically found at construction sites are:

- sediment;
- nutrients;
- heavy metals;
- pesticides and herbicides;
- oil and grease;
- bacteria and viruses;
- trash, debris, and solids;

- treatment polymers; and
- any other toxic chemicals.

“Construction and Development Effluent Limitations and New Source Performance Standards” (C&D Rule) – as published in 40 CFR § 450, the regulation requiring effluent limitations guidelines (ELGs) and new source performance standards (NSPS) for controlling the discharge of pollutants from construction sites.

“Construction Site” or “Site” – the land or water area where construction activities will occur and where stormwater controls will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether.

“Construction Support Activity” – a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

“Construction Waste” – discarded material (such as packaging materials; scrap construction materials; masonry products; timber, steel, pipe, and electrical cuttings; plastics; and styrofoam).

“Conveyance Channel” – a temporary or permanent waterway designed and installed to safely convey stormwater flow within and out of a construction site.

“Critical Habitat” – as defined in the Endangered Species Act at 16 U.S.C. 1531 for a threatened or endangered species, (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

“CWA” – the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

“Dewatering” – the act of draining rainwater and/or ground water from building foundations, vaults, and trenches.

“Discharge” – when used without qualification, means the “discharge of a pollutant.”

“Discharge of a Pollutant” – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. See 40 CFR 122.2.

“Discharge Point” – for the purposes of this permit, the location where collected and concentrated stormwater flows are discharged from the construction site.

“Discharge-Related Activity” – activities that cause, contribute to, or result in stormwater and allowable non-stormwater point source discharges, and measures such as the siting, construction, and operation of stormwater controls to control, reduce, or prevent pollutants from being discharged.

“Discharge to an Impaired Water” – for the purposes of this permit, a discharge to an impaired water occurs if the first water of the U.S. to which you discharge is identified by a state, tribe, or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting an applicable water quality standard and (1) requires development of a total maximum daily load (TMDL) (pursuant to section 303(d) of the CWA; or (2) is addressed by an EPA-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR 130.7(b)(1). For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first water of the U.S. that receives the stormwater discharge from the storm sewer system.

“Domestic Waste” – for the purposes of this permit, typical household trash, garbage or rubbish items generated by construction activities.

“Drainageway” – an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water.

“Drought-Stricken Area” – for the purposes of this permit, an area in which the National Oceanic and Atmospheric Administration’s U.S. Seasonal Drought Outlook indicates for the period during which the construction will occur that any of the following conditions are likely: (1) “Drought to persist or intensify”, (2) “Drought ongoing, some improvement”, (3) “Drought likely to improve, impacts ease”, or (4) “Drought development likely”. See [http://www.cpc.ncep.noaa.gov/products/expert\\_assessment/sdo\\_summary.php](http://www.cpc.ncep.noaa.gov/products/expert_assessment/sdo_summary.php).

“Earth-Disturbing Activity” – actions taken to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of top soils.

“Earth-Disturbing Activities Conducted Prior to Active Mining Activities” – Consists of two classes of earth-disturbing (i.e., clearing, grading and excavation) activities:

a. activities performed for purposes of mine site preparation, including: cutting new rights of way (except when related to access road construction); providing access to a mine site for vehicles and equipment (except when related to access road construction); other earth disturbances associated with site preparation activities on any areas where active mining activities have not yet commenced (e.g., for heap leach pads, waste rock facilities, tailings impoundments, wastewater treatment plants); and

b. construction of staging areas to prepare for erecting structures such as to house project personnel and equipment, mill buildings, etc., and construction of access roads.

Note: only earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining (see (b) above) are considered to be “construction” and therefore stormwater discharges from these activities are eligible for coverage under this permit. See Part 1.2.1.b. The activities described in (a) above are not considered to be “construction” and therefore stormwater discharges associated with this activity are not eligible for coverage under this permit.

“Effective Operating Condition” – for the purposes of this permit, a stormwater control is kept in effective operating condition if it has been implemented and maintained in such a manner that it is working as designed to minimize pollutant discharges.

“Effluent Limitations” – for the purposes of this permit, any of the Part 2 or Part 3 requirements.

“Effluent Limitations Guideline” (ELG) – defined in 40 CFR § 122.2 as a regulation published by the Administrator under section 304(b) of the CWA to adopt or revise effluent limitations.

“Eligible” – for the purposes of this permit, refers to stormwater and allowable non-stormwater discharges that are authorized for coverage under this general permit.

“Emergency-Related Project” – a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.

“Endangered Species” – defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

“Excursion” – a measured value that exceeds a specified limit.

“Existing Site” – a site where construction activities commenced prior to February 16, 2017.

“Exit Points” – any points of egress from the construction site to be used by vehicles and equipment during construction activities.

“Exposed Soils” – for the purposes of this permit, soils that as a result of earth-disturbing activities are left open to the elements.

“Federal Operator” – an entity that meets the definition of “Operator” in this permit and is either any department, agency or instrumentality of the executive, legislative, and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, performing construction activity for any such department, agency, or instrumentality.

“Final Stabilization” – on areas not covered by permanent structures, either (1) uniform, perennial vegetation (*e.g., evenly distributed, without large bare areas*) has been established, or for arid or semi-arid areas, will be established that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas, and/or (2) permanent non-vegetative stabilization measures (*e.g., riprap, gravel, gabions, and geotextiles*) have been implemented to provide effective cover for exposed portions of the site

“General Contractor” – for the purposes of this permit, the primary individual or company solely accountable to perform a contract. The general contractor typically supervises activities, coordinates the use of subcontractors, and is authorized to direct workers at a site to carry out activities required by the permit.

“Hazardous Substances” or “Hazardous or Toxic Waste” – for the purposes of this permit, any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment. See also 40 CFR §261.2.

“Historic Property” – as defined in the National Historic Preservation Act regulations, means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

“Impaired Water” – a water identified by the state, tribe, or EPA as not meeting an applicable water quality standard and (1) requires development of a TMDL (pursuant to section 303(d) of the CWA; or (2) is addressed by an EPA-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR 130.7(b)(1).

“Impervious Surface” – for the purpose of this permit, any land surface with a low or no capacity for soil infiltration including, but not limited to, pavement, sidewalks, parking areas and driveways, packed gravel or soil, or rooftops.

“Indian Country” or “Indian Country Lands” – defined at 40 CFR §122.2 as:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

“Infeasible” – for the purpose of this permit, infeasible means not technologically possible or not economically practicable and achievable in light of best industry practices. EPA notes that it does not intend for any permit requirement to conflict with state water rights law.

“Install” or “Installation” – when used in connection with stormwater controls, to connect or set in position stormwater controls to make them operational.

“Jar test” – a test designed to simulate full-scale coagulation/flocculation/sedimentation water treatment processes by taking into account the possible conditions.

“Landward” – positioned or located away from a waterbody, and towards the land.

“Large Construction Activity” – defined at 40 CFR § 122.26(b)(14)(x) and incorporated here by reference. Large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

“Linear Construction Site” – includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

“Minimize” – to reduce and/or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

“Mining Activity” – for the purposes of this permit, includes mining-related construction activities defined at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15)(i), and active mining activities defined at 40 CFR 122.26(b)(14)(iii). Both of these sub categories of activities include earth-disturbing activities, with the latter also including such activities as: extraction, removal or recovery, and beneficiation of mined material from the earth; removal of overburden and waste rock to expose mineable material; and site reclamation and closure activities.

“Mining Operations” – for the purposes of this permit, mining operations are grouped into two distinct categories, with distinct effluent limits and requirements applicable to each: 1) earth-disturbing activities conducted prior to active mining activities; and 2) active mining activities, which includes reclamation.

“Municipal Separate Storm Sewer System” or “MS4” – defined at 40 CFR §122.26(b)(8) as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special

districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

“National Pollutant Discharge Elimination System” (NPDES) – defined at 40 CFR §122.2 as the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an ‘approved program.’

“Native Topsoil” – the uppermost layer of naturally occurring soil for a particular area, and is often rich in organic matter, biological activity, and nutrients.

“Natural Buffer” – for the purposes of this permit, an area of undisturbed natural cover surrounding waters of the U.S. within which construction activities are restricted. Natural cover includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

“Natural Vegetation” – vegetation that occurs spontaneously without regular management, maintenance, or species introductions or removals, and that generally has a strong component of native species.

“New Operator of a Permitted Site” – an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a “new site” or an “existing site”.

“New Site” – a site where construction activities commenced on or after February 16, 2017.

“New Source” – for the purposes of this permit, a construction project that commenced construction activities after February 1, 2010.

“New Source Performance Standards (NSPS)” – for the purposes of this permit, NSPS are technology-based standards that apply to construction sites that are new sources under 40 CFR 450.24.

“Non-Stormwater Discharges” – discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

“Non-Turbid” – a discharge that does not cause or contribute to an exceedence of turbidity-related water quality standards.

“Notice of Intent” (NOI) – the form (electronic or paper) required for authorization of coverage under the Construction General Permit.

“Notice of Termination” (NOT) – the form (electronic or paper) required for terminating coverage under the Construction General Permit.

“NPDES eReporting Tool” (NeT) – EPA's online system for submitting electronic Construction General Permit forms.

“Operational” – for the purposes of this permit, stormwater controls are made “operational” when they have been installed and implemented, are functioning as designed, and are properly maintained.

“Operator” – for the purposes of this permit and in the context of stormwater discharges associated with construction activity, any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions.

This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of stormwater associated with construction activity. Subcontractors generally are not considered operators for the purposes of this permit.

“Ordinary High Water Mark” – the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris.

“Permitting Authority” – for the purposes of this permit, EPA, a Regional Administrator of EPA, or an authorized representative.

“Point(s) of Discharge” – see “Discharge Point.”

“Point Source” – any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

“Pollutant” – defined at 40 CFR § 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

“Pollution Prevention Controls” – stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

“Polymers” – for the purposes of this permit, coagulants and flocculants used to control erosion on soil or to enhance the sediment removal capabilities of sediment traps or basins. Common construction site polymers include polyacrylamide (PAM), chitosan, alum, polyaluminum chloride, and gypsum.

“Prohibited Discharges” – discharges that are not allowed under this permit, including:

1. Wastewater from washout of concrete;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
4. Soaps or solvents used in vehicle and equipment washing;
5. Toxic or hazardous substances from a spill or other release; and

6. Waste, garbage, floatable debris, construction debris, and sanitary waste.

“Provisionally Covered Under this Permit” – for the purposes of this permit, EPA provides temporary coverage under this permit for emergency-related projects prior to receipt of a complete and accurate NOI. Discharges from earth-disturbing activities associated with the emergency-related projects are subject to the terms and conditions of the permit during the period of temporary coverage.

“Qualified Person” – a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit.

“Receiving Water” – a “Water of the United States” as defined in 40 CFR § 122.2 into which the regulated stormwater discharges.

“Run-On” – sources of stormwater that drain from land located upslope or upstream from the regulated site in question.

“Semi-Arid Areas” – areas with an average annual rainfall of 10 to 20 inches.

“Shared Control” - for the purposes of this permit, a stormwater control, such as a sediment basin or pond, used by two or more operators that is installed and maintained for the purpose of minimizing and controlling pollutant discharges from a construction site with multiple operators associated with a common plan of development or sale.

“Small Construction Activity” – defined at 40 CFR § 122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

“Small Residential Lot” – for the purpose of this permit, a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

“Snowmelt” – the conversion of snow into overland stormwater and ground water flow as a result of warmer temperatures.

“Spill” – for the purpose of this permit, the release of a hazardous or toxic substance from its container or containment.

“Stabilization” – the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process.

“Steep Slopes” – where a state, tribe, local government, or industry technical manual (e.g., stormwater BMP manual) has defined what is to be considered a “steep slope”, this permit’s definition automatically adopts that definition. Where no such definition exists, steep slopes are automatically defined as those that are 15 percent or greater in grade.

“Storm Sewer System” – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) designed or used for collecting or conveying stormwater.

“Stormwater” – stormwater runoff, snowmelt runoff, and surface runoff and drainage.



“Stormwater Control” - refers to any best management practice or other method (including narrative effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the United States.

“Stormwater Discharge Associated with Construction Activity” – as used in this permit, a discharge of pollutants in stormwater to waters of the United States from areas where earth-disturbing activities (e.g., clearing, grading, or excavation) occur, or where construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck chute washdown, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants), are located.

“Stormwater Inlet” – a structure placed below grade to conduct water used to collect stormwater runoff for conveyance purposes.

“Stormwater Team” – the group of individuals responsible for oversight of the development and modifications of the SWPPP, and oversight of compliance with the permit requirements. The individuals on the “Stormwater Team” must be identified in the SWPPP.

“Storm Event” – a precipitation event that results in a measurable amount of precipitation.

“Storm Sewer” – a system of pipes (separate from sanitary sewers) that carries stormwater runoff from buildings and land surfaces.

“Subcontractor” – for the purposes of this permit, an individual or company that takes a portion of a contract from the general contractor or from another subcontractor.

“SWPPP” (Stormwater Pollution Prevention Plan) – a site-specific, written document that, among other things: (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater controls to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this general permit.

“Temporary Stabilization” – a condition where exposed soils or disturbed areas are provided temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.

“Thawing Conditions” – for the purposes of this permit, thawing conditions are expected based on the historical likelihood of two or more days with daytime temperatures greater than 32°F. This date can be determined by looking at historical weather data. Note: the estimation of thawing conditions is for planning purposes only. During construction the permittee will be required to conduct site inspections based upon actual conditions (i.e., if thawing conditions occur sooner than expected, the permittee will be required to conduct inspections at the regular frequency).

“Threatened Species” – defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

“Tier 2 Waters” – for antidegradation purposes, pursuant to 40 CFR 131.12(a)(2), those waters that are characterized as having water quality that exceeds the levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water.

“Tier 2.5 Waters” – for antidegradation purposes, those waters designated by states or tribes as requiring a level of protection equal to and above that given to Tier 2 waters, but less than that given Tier 3 waters. Some states have special requirements for these waters.

“Tier 3 Waters” – for antidegradation purposes, pursuant to 40 CFR 131.12(a)(3), Tier 3 waters are identified by states as having high quality waters constituting an Outstanding National Resource

Water (ONRW), such as waters of National Parks and State Parks, wildlife refuges, and waters of exceptional recreational or ecological significance.

“Total Maximum Daily Load” or “TMDL” – the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measure.

“Toxic Waste” – see “Hazardous Substances.”

“Treatment Chemicals” – polymers, flocculants, or other chemicals used to reduce turbidity in stormwater.

“Turbidity” – a condition of water quality characterized by the presence of suspended solids and/or organic material.

“Uncontaminated Discharge” – in the context of authorized non-stormwater discharges, a discharge that does not cause or contribute to an exceedance of applicable water quality standards.

“Upland” – the dry land area above and ‘landward’ of the ordinary high water mark.

“Upset” – Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. See 40 CFR 122.41(n)(1).

“Water-Dependent Structures” – structures or facilities that are required to be located directly adjacent to a waterbody or wetland, such as a marina, pier, boat ramp, etc.

“Water Quality Standards” – defined in 40 CFR § 131.3, and are provisions of state or federal law which consist of a designated use or uses for the waters of the United States, water quality criteria for such waters based upon such uses, and an antidegradation policy to protect high-quality waters. Water quality standards protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

“Waters of the United States” – see definition at 40 CFR 122.2.

“Wetland” – those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. On-site evaluations are typically required to confirm the presence and boundaries of wetlands.

## **1. Acronyms**

ACHP – Advisory Council on Historic Preservation

BMP – Best Management Practice

CBI – Confidential Business Information

CGP – Construction General Permit

CFR – Code of Federal Regulations

CWA – Clean Water Act

CZMA – Coastal Zone Management Act  
ECHO – EPA Enforcement and Compliance History Online  
ELG – Effluent Limitations Guideline  
EPA – United States Environmental Protection Agency  
ESA – Endangered Species Act  
FR – Federal Register  
MS4 – Municipal Separate Storm Sewer System  
MSGP – Multi-Sector General Permit  
NEPA – National Environmental Policy Act  
NeT – NPDES eReporting Tool  
NHPA – National Historic Preservation Act  
NMFS – United States National Marine Fisheries Service  
NPDES – National Pollutant Discharge Elimination System  
NOI – Notice of Intent  
NOT – Notice of Termination  
NPDES – National Pollutant Discharge Elimination System  
NRC – National Response Center  
NRCS – National Resources Conservation Service  
NSPS – New Source Performance Standards  
ONRW – Outstanding National Resource Water  
PAM – Polyacrylamide  
POTW – Publicly Owned Treatment Works  
RUSLE – Revised Universal Soil Loss Equation  
SDS – Safety Data Sheet  
SHPO – State Historic Preservation Office  
SPCC – Spill Prevention Control and Countermeasure  
SWPPP – Stormwater Pollution Prevention Plan  
THPO – Tribal Historic Preservation Office  
TMDL – Total Maximum Daily Load  
TSS – Total Suspended Solids  
UIC – Underground Injection Control  
USDA – United States Department of Agriculture  
USFWS – United States Fish and Wildlife Service  
USGS – United States Geological Survey  
WQS – Water Quality Standard

## Appendix B - Permit Areas Eligible for Coverage and EPA Regional Addresses

Permit coverage for stormwater discharges from construction activity occurring within the following areas is provided by legally separate and distinctly numbered permits.

### B.1 EPA Region 1

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 1:

<b>Permit No.</b>	<b>Areas of Coverage/Where EPA is Permitting Authority</b>
<b>CTR10I000</b>	Indian country within the State of Connecticut
<b>MAR100000</b>	Commonwealth of Massachusetts (except Indian country)
<b>MAR10I000</b>	Indian country within the State of Massachusetts
<b>NHR100000</b>	State of New Hampshire
<b>RIR10I000</b>	Indian country within the State of Rhode Island
<b>VTR10F000</b>	Areas in the State of Vermont subject to construction by a Federal Operator
<b>01R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 1 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

#### EPA Region 1 Address:

U.S. EPA Region 1  
Office of Ecosystem Protection  
Stormwater and Construction Permits Section  
5 Post Office Square, Suite 100  
(OEP 06-1)  
Boston, MA 02109-3912

### B.2 EPA Region 2

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 2:

<b>Permit No.</b>	<b>Areas of Coverage/Where EPA is Permitting Authority</b>
<b>NYR10I000</b>	Indian country within the State of New York
<b>PRR100000</b>	Commonwealth of Puerto Rico
<b>02R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 2 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 2 Address:**

*For Puerto Rico:*

U.S. EPA Region 2  
Caribbean Environmental Protection Division  
NPDES Stormwater Program  
City View Plaza II – Suite 7000  
48 Rd. 165 Km 1.2  
Guaynabo, PR 00968-8069

*For New York:*

U.S. EPA Region 2  
NPDES Stormwater Program  
290 Broadway, 24th Floor  
New York, NY 10007-1866

**B.3 EPA Region 3**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 3:

<b>Permit No.</b>	<b><u>Areas of Coverage/Where EPA is Permitting Authority</u></b>
<b>DCR10000</b>	District of Columbia
<b>DER10F000</b>	Areas in the State of Delaware subject to construction by a Federal Operator
<b>VAR10I000</b>	Indian country within the State of Virginia
<b>03R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

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For stormwater discharges in EPA Region 3 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 3 Address:**

U.S. EPA Region 3  
Office of NPDES Permits and Enforcement  
NPDES Permits Branch, Mailcode 3WP41  
1650 Arch Street  
Philadelphia, PA 19103

**B.4 EPA Region 4**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 4:

<b>Permit No.</b>	<b><u>Areas of Coverage/Where EPA is Permitting Authority</u></b>
<b>ALR10I000</b>	Indian country within the State of Alabama
<b>FLR10I000</b>	Indian country within the State of Florida
<b>MSR10I000</b>	Indian country within the State of Mississippi
<b>NCR10I000</b>	Indian country within the State of North Carolina
<b>04R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program (except Catawba lands in South Carolina)

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For stormwater discharges in EPA Region 4 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 4 Address:**

U.S. EPA Region 4  
 Water Protection Division  
 NPDES Stormwater Program  
 Atlanta Federal Center  
 61 Forsyth Street SW  
 Atlanta, GA 30303-3104

**B.5 EPA Region 5**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 5:

<u>Permit No.</u>	<u>Areas of Coverage/Where EPA is Permitting Authority</u>
<b>MIR10I000</b>	Indian country within the State of Michigan
<b>MNR10I000</b>	Indian country within the State of Minnesota
<b>WIR10I000</b>	Indian country within the State of Wisconsin, except the Sokaogon Chippewa (Mole Lake) Community
<b>05R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 5 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 5 Address:**

U.S. EPA Region 5  
 NPDES Program Branch  
 77 W. Jackson Blvd.  
 Mail Code WN16J  
 Chicago, IL 60604-3507

**B.6 EPA Region 6**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 6:

<u>Permit No.</u>	<u>Areas of Coverage/Where EPA is Permitting Authority</u>
<b>LAR10I000</b>	Indian country within the State of Louisiana
<b>NMR100000</b>	State of New Mexico, except Indian country
<b>NMR10I000</b>	Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10I000 and Ute Mountain Reservation Lands that are covered under Colorado permit COR10I000.
<b>OKR10I000</b>	Indian country within the State of Oklahoma
<b>OKR10F000</b>	Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and

<u>Permit No.</u>	<u>Areas of Coverage/Where EPA is Permitting Authority</u>
<b>TXR10F000</b>	pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09). Discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.
<b>TXR10I000</b>	Indian country within the State of Texas
<b>06R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 6 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 6 Address:**

U.S. EPA Region 6  
 NPDES Stormwater Program (WQ-PP)  
 1445 Ross Avenue, Suite 1200  
 Dallas, TX 75202-2733

**B.7 EPA Region 7**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 7:

<u>Permit No.</u>	<u>Areas of Coverage/Where EPA is Permitting Authority</u>
<b>IAR10I000</b>	Indian country within the State of Iowa
<b>KSR10I000</b>	Indian country within the State of Kansas
<b>NER10I000</b>	Indian country within the State of Nebraska, except Pine Ridge Reservation lands (see Region 8)
<b>07R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 7 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 7 Address:**

U.S. EPA Region 7  
 NPDES Stormwater Program  
 11201 Renner Blvd  
 Lenexa, KS 66219

**B.8 EPA Region 8**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 8:

<b><u>Permit No.</u></b>	<b><u>Areas of Coverage/Where EPA is Permitting Authority</u></b>
<b>COR10F000</b>	Areas in the State of Colorado, except those located on Indian country, subject to construction activity by a Federal Operator
<b>COR10I000</b>	Indian country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico
<b>MTR10I000</b>	Indian country within the State of Montana
<b>NDR10I000</b>	Indian country within the State of North Dakota, as well as that portion of the Standing Rock Reservation located in South Dakota (except for the portion of the lands within the former boundaries of the Lake Traverse Reservation which is covered under South Dakota permit SDR10I000 listed below)
<b>SDR10I000</b>	Indian country within the State of South Dakota, as well as the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota (except for the Standing Rock Reservation which is covered under North Dakota permit NDR10I000 listed above)
<b>UTR10I000</b>	Indian country within the State of Utah, except Goshute and Navajo Reservation lands (see Region 9)
<b>WYR10I000</b>	Indian country within the State of Wyoming
<b>08R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program

For stormwater discharges in EPA Region 8 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 8 Address:**

EPA Region 8 Storm Water Program  
 Mailcode: 8P-W-WW  
 1595 Wynkoop Street  
 Denver, CO 80202-1129

**B.9 EPA Region 9**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 9:

<b><u>Permit No.</u></b>	<b><u>Areas of Coverage/Where EPA is Permitting Authority</u></b>
<b>ASR100000</b>	Island of American Samoa
<b>AZR10I000</b>	Indian country within the State of Arizona, as well as Navajo Reservation lands in New Mexico and Utah
<b>CAR10I000</b>	Indian country within the State of California
<b>GUR100000</b>	Island of Guam
<b>JAR100000</b>	Johnston Atoll
<b>MPR100000</b>	Commonwealth of the Northern Mariana Islands
<b>MWR100000</b>	Midway Island and Wake Island
<b>NVR10I000</b>	Indian country within the State of Nevada, as well as the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah
<b>09R10I000</b>	All areas of Indian country not identified above that are not already covered by an EPA-approved permitting program



For stormwater discharges in EPA Region 9 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 9 Address:**

U.S. EPA Region 9  
Water Division  
NPDES Stormwater Program (WTR-2-3)  
75 Hawthorne Street  
San Francisco, CA 94105-3901

**B.10 EPA Region 10**

The permit offers coverage for stormwater discharges from construction activity from the following areas in EPA Region 10:

<b><u>Permit No.</u></b>	<b><u>Areas of Coverage/Where EPA is Permitting Authority</u></b>
<b>AKR10I000</b>	Indian country lands as defined in 18 U.S.C. 1151 within the State of Alaska
<b>AKR10F000</b>	Denali National Park and Preserve
<b>IDR100000</b>	State of Idaho, except Indian country
<b>IDR10I000</b>	Indian country within the State of Idaho, except Duck Valley Reservation lands (see Region 9)
<b>ORR10I000</b>	Indian country within the State of Oregon, except Fort McDermitt Reservation lands (see Region 9)
<b>WAR10F000</b>	Areas in the State of Washington, except those located on Indian country, subject to construction activity by a Federal Operator
<b>WAR10I000</b>	Indian country within the State of Washington

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For stormwater discharges in EPA Region 10 outside the areas of coverage identified above, please contact your state NPDES permitting authority to obtain coverage under a state-issued NPDES permit.

**EPA Region 10 Address:**

U.S. EPA Region 10  
NPDES Stormwater Program  
1200 6th Avenue (OWW-191)  
Seattle, WA 98101-3140

## Appendix C - Small Construction Waivers and Instructions

These waivers are only available to stormwater discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each operator, otherwise needing permit coverage, must notify EPA of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

### C.1 Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The operator must certify to EPA that construction activity will occur only when the rainfall erosivity factor is less than five. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the CGP have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The operator must submit a waiver certification to EPA prior to commencing construction activities.

*Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.*

EPA has developed an online rainfall erosivity calculator to help small construction sites determine potential eligibility for the rainfall erosivity waiver. You can access the calculator from EPA's website at: <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites>. The R factor can easily be calculated by using the construction site latitude/longitude or address and estimated start and end dates of construction. This calculator may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting site stabilization will allow you to qualify for the waiver. Use this online calculator or the Construction Rainfall Erosivity Waiver Fact Sheet (<https://www.epa.gov/sites/production/files/2015-10/documents/fact3-1.pdf>) to assist in determining the R Factor for your small construction site.

If you are the operator of the construction activity and eligible for a waiver based on low erosivity potential, you can submit a rainfall erosivity waiver electronically via EPA's NPDES eReporting Tool (NeT) (<https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>), unless you received a waiver from your EPA Regional Office (see Part 1.4.1 of the CGP for information about receiving a waiver from electronic reporting).

*Note: If the R factor is five or greater, you do not qualify for the rainfall erosivity waiver, and must obtain coverage under an NPDES permit (e.g., the CGP), unless you qualify for the Water Quality Waiver as described in section B below.*

If your small construction project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five, you must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of your records. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is five or above, you must obtain NPDES permit coverage.

## **C.2 TMDL Waiver**

This waiver is available if EPA has established or approved a TMDL that addresses the pollutant(s) of concern for the impaired water and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any waterbody that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by EPA is available from EPA online at <https://www.epa.gov/tmdl> and from state and tribal water quality agencies.

If you are the operator of the construction activity and eligible for a waiver based on compliance with an EPA-established or approved TMDL, you must provide the following information in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. The name and approval date of the TMDL;
6. A statement, signed and dated by an authorized representative as provided in Appendix I, Subsection I.11, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the TMDL.

## **C.3 Equivalent Analysis Waiver**

This waiver is available for discharges to non-impaired waters only. The operator can develop an equivalent analysis that determines allocations for his/her small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);

2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. Your equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix I, Subsection I.11, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the equivalent analysis.

#### **C.4 Waiver Deadlines and Submissions**

1. Waiver certifications must be submitted prior to commencement of construction activities.
2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until EPA approves your request. As such, you may not commence construction activities until receipt of approval from EPA.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. The Agency reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of stormwater associated with small construction activity, provided you qualify for the waiver. Any discharge of stormwater associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, EPA reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. EPA may notify any operator covered by a waiver that they must obtain NPDES permit coverage. EPA may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition EPA to take action under this provision by submitting written notice along with supporting justification.

Complete and accurate TMDL or equivalent analysis waiver requests must be sent to the applicable EPA Regional Office address specified in Appendix B.

## Appendix D - Eligibility Procedures Relating to Threatened and Endangered Species Protection

In accordance with Part 1.1.5 of the CGP, you must follow the procedures in this appendix to determine your eligibility under one of the criteria in Part D.1 of this appendix with respect to the protection of federally listed threatened or endangered species and federally designated "critical habitat" [hereinafter "threatened and endangered species"] under the Endangered Species Act (ESA) from discharges and discharge-related activities authorized under this permit. If you do not meet one of these criteria, you are not eligible for coverage under this permit.

While coordination between you and the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) (together, the "Services") is not necessarily required in all cases, EPA encourages you to coordinate with the Services, to document that coordination, and to do so early in the planning process prior to submitting your NOI.

This appendix is organized as follows:

- **Part D.1:** Threatened and Endangered Species Protection Eligibility Criteria
- **Part D.2:** Procedures for Determining Which Threatened and Endangered Species Protection Criteria Applies

### D.1 Threatened and Endangered Species Protection Eligibility Criteria

You must certify in your NOI that you meet one of the eligibility criteria listed below in order to be eligible for coverage under this permit. Once you determine the applicable eligibility criterion, you must:

- Specify the basis for your selection of the applicable eligibility criterion, and if required, provide documentation that is the basis for your determination with the NOI form; and
- Provide documentation in your SWPPP that is sufficient to support your determination that you satisfy the requirements of the applicable criterion.

The definition of "action area," which is contained in Appendix A, is repeated below for convenience.

"Action Area" – all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. For the purposes of this permit and for application of the Endangered Species Act requirements, the following areas are included in the definition of action area:

- The areas on the construction site where stormwater discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes stormwater to flow into a small wetland or other habitat that is on the site that contains listed species.)
- The areas where stormwater discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where stormwater flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as listed amphibians) are found in the ditch, swale, or gully.)
- The areas where stormwater from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where stormwater from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- The areas where stormwater controls will be constructed and operated, including any areas where stormwater flows to and from the stormwater controls. (Example: Where a stormwater retention pond would be built.)

**Criterion A.** No ESA-listed species and/or designated critical habitat present in action area. Using the process outlined in Appendix D of this permit, you certify that ESA-listed species and designated critical habitat(s) under the jurisdiction of the USFWS or NMFS are not likely to occur in your site's "action area" as defined in Appendix A of this permit.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify the USFWS and NMFS information sources used. Attaching aerial image(s) of the site to this NOI is helpful to EPA, USFWS, and NMFS in confirming eligibility under this criterion. Please Note: NMFS' jurisdiction includes ESA-listed marine and estuarine species that spawn in inland rivers.

**Criterion B.** Eligibility requirements met by another operator under the 2017 CGP. The construction site's discharges and discharge-related activities were already addressed in another operator's valid certification of eligibility for your "action area" under eligibility Criterion A, C, D, E, or F of the 2017 CGP and you have confirmed that no additional ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS not considered in the that certification may be present or located in the "action area." To certify your eligibility under this criterion, there must be no lapse of NPDES permit coverage in the other CGP operator's certification. By certifying eligibility under this criterion, you agree to comply with any conditions upon which the other CGP operator's certification was based. You must include in your NOI the NPDES ID from the other 2017CGP operator's notification of authorization under this permit. If your certification is based on another 2017 CGP operator's certification under criterion C, you must provide EPA with the relevant supporting information required of existing dischargers in criterion C in your NOI form.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify the eligibility criterion of the other CGP NOI, the authorization date, and confirmation that the authorization is effective.

**Criterion C.** Discharges not likely to adversely affect ESA-listed species and/or designated critical habitat. ESA-listed species and/or designated critical habitat(s) under the jurisdiction of the USFWS and/or NMFS are likely to occur in or near your site's "action area," and you certify to EPA that your site's discharges and discharge-related activities are not likely to adversely affect ESA-listed threatened or endangered species and/or designated critical habitat. This certification may include consideration of any stormwater controls and/or management practices you will adopt to ensure that your discharges and discharge-related activities are not likely to adversely affect ESA-listed species and/or designated critical habitat. To certify your eligibility under this criterion, indicate 1) the ESA-listed species and/or designated habitat located in your "action area" using the process outlined in Appendix D of this permit; 2) the distance between the site and the listed species and/or designated critical habitat in the action area (in miles); and 3) a rationale describing specifically how adverse effects to ESA-listed species will be avoided from the discharges and discharge-related activities. You must also include a copy of your site map from your SWPPP showing the upland and in-water extent of your "action area" with this NOI.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify the information resources and expertise (e.g., state or federal biologists) used to arrive at this conclusion. Any supporting documentation should explicitly state that both ESA-listed species and designated critical habitat under the jurisdiction of the USFWS and/or NMFS were considered in the evaluation.

**Criterion D.** Coordination with USFWS and/or NMFS has successfully concluded. Coordination between you and the USFWS and/or NMFS has concluded. The coordination must have addressed the effects of your site's discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS, and resulted in a written concurrence from USFWS and/or NMFS that your site's discharges and discharge-related activities are not likely to adversely affect listed species and/or critical habitat. You must include copies of the correspondence with the participating agencies in your SWPPP and this NOI.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify whether USFWS or NMFS or both agencies participated in coordination, the field office/regional office(s) providing that coordination, and the date that coordination concluded.

**Criterion E.** ESA Section 7 consultation has successfully concluded. Consultation between a Federal Agency and the USFWS and/or NMFS under section 7 of the ESA has concluded. The consultation must have addressed the effects of the construction site's discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS. To certify eligibility under this criterion, Indicate the result of the consultation:

- I. biological opinion from USFWS and/or NMFS that concludes that the action in question (taking into account the effects of your site's discharges and discharge-related activities) is not likely to jeopardize the continued existence of listed species, nor the destruction or adverse modification of critical habitat; or
- II. written concurrence from USFWS and/or NMFS with a finding that the site's discharges and discharge-related activities are not likely to adversely affect ESA-listed species and/or designated critical habitat.

You must include copies of the correspondence between yourself and the USFWS and/or NMFS in your SWPPP and this NOI.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify the federal action agency(ies) involved, the field office/regional office(s) providing that consultation, any tracking numbers of identifiers associated with that consultation (e.g., IPaC number, PCTS number), and the date the consultation was completed.

**Criterion F.** Issuance of section 10 permit. Potential take is authorized through the issuance of a permit under section 10 of the ESA by the USFWS and/or NMFS, and this authorization addresses the effects of the site's discharges and discharge-related activities on ESA-listed species and designated critical habitat. You must include copies of the correspondence between yourself and the participating agencies in your SWPPP and your NOI.

**Basis statement content:** A basis statement supporting the selection of this criterion should identify whether USFWS or NMFS or both agencies provided a section 10 permit, the field office/regional office(s) providing permit(s), any tracking numbers of identifiers associated with that consultation (e.g., IPaC number, PCTS number), and the date the permit was granted.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility criteria in this section to remain eligible for coverage under this permit. Documentation of these requirements must be kept as part of your SWPPP (see Part 7.2.9.a).

NMFS will, within 14 days of submission of the NOI, advise EPA whether it believes the planned discharges meet the eligibility criteria of not likely to adversely affect NMFS Listed Resources of Concern, whether the eligibility criterion could be met with additional conditions; or whether the eligibility criterion is not met. With respects to ESA issues, EPA recognizes NMFS expertise and will carefully consider NMFS' determination in identifying eligibility for authorization, either with or without additional conditions. In the event NMFS has placed a hold on your NOI, EPA will notify you as to whether your discharges are authorized or whether an individual permit will be required. If you do not hear from EPA within 14 days, you may assume that your discharge is authorized without further conditions.

## **D.2 Procedures for Determining Which Threatened and Endangered Species Protection Criterion Applies**

You must follow the procedures in this Part to determine the criterion listed above under which your site is eligible for permit coverage.

**D.2.1 Step 1** - Determine if Your Discharges and Discharge-Related Activities Were Already Addressed in Another Operator's Valid Certification that Included Your Action Area.

- **If your discharges and discharge-related activities were already addressed in another operator's valid certification that included your action area** (e.g., a general contractor or developer may have completed and filed an NOI for the entire action area with the necessary ESA certifications (Criterion A, C, D, E, or F)), you may select eligibility Criterion B on your NOI form.

By certifying eligibility under Criterion B, you must comply with any terms and conditions imposed under the eligibility requirements of the criterion for which the other operator has established eligibility (either Criterion A, C, D, E, or F) to ensure that your discharges and discharge-related activities are protective of listed species and/or critical habitat.

*Note: If you are unable to meet these eligibility requirements, then you may either establish eligibility under one of the other criterion, or you may consider applying to EPA for an individual permit.*

Under Criterion B, you must provide documentation in your SWPPP of any of these terms and conditions, as well as the other operator's basis for establishing eligibility. You must also provide a description of the basis for your selection of Criterion B on your NOI form, including the eligibility criterion (A, C, D, E, or F) that was certified to by the other operator, and must provide the NPDES ID from the other operator's notification of authorization under this permit.

If your certification is based on another operator's certification under criterion C, you must provide the documentation required in the NOI for criterion C, namely: 1) what federally listed species and/or designated habitat are located in your "action area"; and 2) the distance between your site and the listed species or designated critical habitat (in miles).

- **If discharges and discharge-related activities from your site were not addressed in another operator's valid certification that included your action area**, you must follow the applicable procedures in Steps 2 through 5 below.

**D.2.2 Step 2** - Determine if Listed Threatened or Endangered Species or their Designated Critical Habitat(s) are Likely to Occur in your Site's Action Area

You must determine, to the best of your knowledge, whether species listed as either threatened or endangered, or their critical habitat(s) (see definitions of these terms in Appendix A), are located in your site's action area. To make this determination, you should first determine if listed species and/or critical habitat are expected to exist in your county or township. The U.S. Fish and Wildlife Service and National Marine Fisheries Service maintain lists of federally listed endangered or threatened species on their internet sites.

- For National Marine Fisheries Service species and critical habitat information, use the following webpages, which provide up-to-date information on listed species (<http://www.nmfs.noaa.gov/pr/species/esa/>) and critical habitat (<http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm>). To determine the field office that corresponds to your site, go to <http://www.nmfs.noaa.gov/> (under the left tab for "Regions").

For National Marine Fisheries Service species in the Greater Atlantic Region, go to <https://www.greateratlantic.fisheries.noaa.gov/protected/index.html>.



- For Fish and Wildlife Service species information, use the on-line mapping tool IPaC (the Information, Planning, and Consultation System) located at <http://ecos.fws.gov/ipac/>, and follow these steps:
  - Select Get Started
  - Select Enter Project Location
  - Use an address, city name or other location to zoom into your project area
  - Use the zoom feature to see the entire extent of your action area on the screen
  - Use one of the mapping features (e.g., Polygon or line feature) to draw your action
- When you are done, press *Continue*.
- Select Request an Official Species List
- Complete the fields on the Official Species List Request page, and include "(CGP)" at the end of the project description. – For Classification, select "Water Quality Modification".
- Select the appropriate requesting agency/organization type (for most dischargers, this should be "Other").
- Submit the request to acquire an Official Species List, which should show both listed species as well as any designated critical habitat that are present in the action area in the previous step.
- *Note: If a link to an Official Species List is not available on the page, follow the web link of the office(s) indicated, or contact the office directly by mail or phone if a web link is not shown.*
- **If listed species and/or critical habitat may exist in your action area, you must do one or more of the following:**
  - Conduct visual inspections. This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal stormwater collection systems.
  - Conduct a formal biological survey. In some cases, particularly for larger construction sites with extensive stormwater discharges, biological surveys may be an appropriate way to assess whether species are located in the action area and whether there are likely to be adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms.
  - If required, conduct an environmental assessment under the National Environmental Policy Act (NEPA). Some construction activities might require review under NEPA for specific reasons, such as federal funding or other federal involvement in the project. Note: Coverage under the CGP does not trigger such a review for individual projects/sites. EPA has complied with NEPA in the issuance of the CGP.

**and**

- Follow the instructions in Steps 3 – 5 below, as applicable. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this CGP may require measures to protect critical habitat that are separate from those to protect listed species.
- **If there are no listed species and no critical habitat areas in your action area**, you may check *eligibility criterion A* on your NOI form. You must also provide a description of the basis for the criterion selected on your NOI form and provide documentation supporting the criterion selected in your SWPPP.

**D.2.3 Step 3 - Determine if the Construction Activity's Discharges or Discharge-Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat**

If in Step 2 you determine that listed species and/or critical habitat could exist in your action area, you must next assess whether your discharges or discharge-related activities are likely to adversely affect listed threatened or endangered species or designated critical habitat.

Potential adverse effects from discharges and discharge-related activities include:

- *Hydrological.* Stormwater discharges may cause siltation, sedimentation, or induce other changes in receiving waters such as temperature, salinity, or pH. These effects will vary with the amount of stormwater discharged and the volume and condition of the receiving water. Where a stormwater discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of stormwater controls, may adversely affect listed species or their habitat. Stormwater may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in stormwater may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you should contact the appropriate Services office for assistance.

- **If adverse effects to listed threatened or endangered species or their critical habitat are not likely**, then you may select *eligibility criterion C* on the NOI form. You must provide the following specific information on your NOI form: 1) the federally listed species and/or designated habitat are located in your "action area"; and 2) the distance between your site and the listed species or designated critical habitat (in miles). You must also provide a copy of your site map with your NOI.
- **If adverse effects to listed threatened or endangered species or their critical habitat are likely**, you must follow Step 4 below.

**D.2.4 Step 4 - Determine if Measures Can Be Implemented to Avoid Adverse Effects**

If you make a preliminary determination in Step 3 that adverse effects from your construction activity's discharges or discharge-related activities are likely to occur, you can still receive coverage under eligibility criterion C of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for CGP coverage.

These measures may involve relatively simple changes to construction activities such as re-routing a stormwater discharge to bypass an area where species are located, relocating stormwater controls, or by modifying the "footprint" of the construction activity. If you are unable to ascertain which measures to implement to avoid the likelihood of adverse effects, you must coordinate or enter into consultation with the Fish and Wildlife Service and/or National Marine Fisheries Service, in which case you would not be eligible for coverage under eligibility criterion C, but may instead be eligible for coverage under eligibility criterion D, E, or F (described in more detail in Step 5).

- **If you are able to install and implement appropriate measures to avoid the likelihood of adverse effects**, then you may check eligibility criterion C on the NOI form. The measures you adopt to avoid or eliminate adverse effects must be implemented for the duration of the construction project and your coverage under the CGP. You must also provide a description of the basis for the criterion selected, and the following specific information on your NOI form: 1) the federally listed species and/or designated habitat are located in your "action area"; and 2) the distance between your site and the listed species or designated critical habitat (in miles).
- **If you cannot ascertain which measures to implement to avoid the likelihood of adverse effects**, you must follow the procedures in Step 5.

**D.2.5 Step 5 - Determine if the Eligibility Requirements of Criterion D, E, or F Can Be Met**

If in Step 4 you cannot ascertain which measures to implement to avoid the likelihood of adverse effects, you must contact the Fish and Wildlife Service and/or the National Marine Fisheries Service. You may still be eligible for CGP coverage if likely adverse effects can be addressed through meeting criterion D, E, or F.

- **Criterion D:** Coordination between you and the Services has concluded. The coordination must have addressed the effects of your site's discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and resulted in a written concurrence from the relevant Service(s) that your site's discharges and discharge-related activities are not likely to adversely affect listed species or critical habitat.

If you have met the requirements of criterion D, you may select eligibility criterion D on the NOI form. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between you and the applicable Service in your SWPPP.

- **Criterion E:** Consultation between a Federal Agency and the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has concluded. The consultation must have addressed the effects of the construction site's discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat. The result of this consultation must be either (1) a biological opinion that concludes that the action in question (taking into account the effects of your site's discharges and discharge-related activities) is not likely to jeopardize the

continued existence of listed species, nor the destruction or adverse modification of critical habitat; or (2) written concurrence from the applicable Service(s) with a finding that the site's discharges and discharge-related activities are not likely to adversely affect federally-listed species or federally-designated habitat.

For more information on section 7 consultation, see 50 CFR §402. If you receive a "jeopardy opinion," you may continue to work with the Fish and Wildlife Service and/or National Marine Fisheries Service and your permitting authority to modify your project so that it will not jeopardize listed species or designated critical habitat.

Note that most consultations are accomplished through informal consultation. When conducting informal ESA section 7 consultation as a non-federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must notify the Services of your intention and agreement to conduct consultation as a non-federal representative.

Consultation may also occur in the context of another federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation).

Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, operators may, if they wish, initiate consultation with the Services at Step Four.

Whether ESA section 7 consultation must be performed with either the Fish and Wildlife Service, National Marine Fisheries Service, or both Services depends on the listed species that may be affected by the operator's activity. In general, the National Marine Fisheries Service has jurisdiction over marine, estuarine, and anadromous species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

If you have met the requirements of criterion E, *you may select eligibility criterion E on the NOI form*. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between yourself and the Services in your SWPPP.

- **Criterion F:** Your construction activities are authorized through the issuance of a permit under section 10 of the ESA, and this authorization addresses the effects of the site's discharges and discharge-related activities on federally-listed species and federally-designated critical habitat.

You must follow Fish and Wildlife Service and/or National Marine Fisheries Service procedures when applying for an ESA section 10 permit (see 50 CFR §17.22(b)(1) for Fish and Wildlife Service and §222.22 for National Marine Fisheries Service). Application instructions for section 10 permits can be obtained from <http://www.fws.gov> and <http://www.nmfs.noaa.gov> or by contacting the appropriate Service office.

If you have met the requirements of criterion F, *you may select eligibility criterion F on the NOI form*. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between yourself and the Services in your SWPPP.

## Appendix E – Historic Property Screening Process

### Background

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal “undertakings”, such as the issuance of this permit, on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. To address any issues relating to historic properties in connection with the issuance of this permit, EPA developed the screening process in this appendix that enables construction operators to appropriately consider the potential impacts, if any, of their installation of stormwater controls on historic properties and to determine whether actions can be taken, if applicable, to mitigate any such impacts. Although the coverages of individual construction sites under this permit do not constitute separate Federal undertakings, the screening process in this appendix provides an appropriate site-specific means of addressing historic property issues in connection with EPA’s issuance of the permit.

#### **Key Terms**

**Historic property**- prehistoric or historic districts, sites, buildings, structures, or objects that are included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and remains that are related to and located within such properties

**SHPO** – The State Historic Preservation Officer for a particular state

**THPO or Tribal representative** – The Tribal Historic Preservation Officer for a particular tribe or, if there is no THPO, the representative designated by such tribe for NHPA purposes

### Instructions for All Construction Operators

You are required to follow the screening process in this appendix to determine if your installation of stormwater controls on your site has the potential to cause effects to historic properties, and whether or not you need to contact your SHPO, THPO, or other tribal representative for further information. **You may not submit your NOI until you have completed this screening process.** The following four steps describe how applicants can meet the historic property requirements under this permit:

**Step 1**            *Are you installing any stormwater controls that require subsurface earth disturbance?*<sup>1</sup>

The first step of the screening process is to determine if you will install stormwater controls that cause subsurface earth disturbance. The installation of the following types of stormwater controls require subsurface earth disturbance:<sup>2</sup>

- Dikes
- Berms
- Catch Basins
- Ponds
- Ditches

<sup>1</sup> You are only required to consider earth-disturbing activities related to the installation of stormwater controls in the NHPA screening process. You are not required to consider other earth-disturbing activities at the site. If you are installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, your stormwater controls have the potential to have an effect on historic properties. If this is the case, then you must proceed to Step 2.

<sup>2</sup> This list is not intended to be exhaustive. Other stormwater controls that are not on this list may involve earth-disturbing activities and must also be examined for the potential to affect historic properties.

- Trenches
- Culverts
- Channels
- Perimeter Drains
- Swales

If you are not installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, then you may indicate this on your NOI, and no further screening is necessary. During the 14-day waiting period after submitting your NOI, the SHPO, THPO, or other tribal representative may request that EPA hold up authorization based on concerns about potential adverse effects to historic properties. EPA will evaluate any such request and notify you if any additional controls to address adverse effects to historic properties are necessary.

Step 2        *Have prior professional cultural resource surveys or other evaluations determined that historic properties do not exist, or have prior disturbances precluded the existence of historic properties?*

If you are installing a stormwater control that requires subsurface earth disturbance, you must next determine if no historic properties exist on your site based on prior professional cultural resource surveys or other evaluations, or if the existence of historic properties has been precluded because of prior earth disturbances.

If prior to your project it has already been determined that no historic properties exist at your site based on available information, including information that may be provided by your applicable SHPO, THPO, or other tribal representative, then you may indicate this on your NOI, and no further screening steps are necessary. Similarly, if prior earth disturbances have eliminated the possibility that historic properties exist on your site, you may indicate this on your NOI, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that EPA hold up authorization based on concerns about potential adverse effects to historic properties. EPA will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.

If neither of these circumstances exists for your project, you must proceed to Step 3.

Step 3        *If you are installing any stormwater controls that require subsurface earth disturbance, you must determine if these activities will have an effect on historic properties.*

If your answer to the question in Step 2 is "no", then you must assess whether your earth-disturbing activities related to the installation of stormwater controls will have an effect on historic properties. This assessment may be based on historical sources, knowledge of the area, an assessment of the types of earth-disturbing activities you are engaging in, considerations of any controls and/or management practices you will adopt to ensure that your stormwater control-related earth-disturbing activities will not have an effect on historic properties, and any other relevant factors. If you determine based on this assessment that earth disturbances related to the installation of your stormwater controls will have no effect on historic properties, you may indicate this on your NOI, and document the basis for your determination in your SWPPP, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that EPA hold up authorization based on concerns about potential adverse effects to historic properties. EPA will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.

If none of the circumstances in Steps 1 - 3 exist for your project, you must proceed to Step 4.

Step 4: *If you are installing any stormwater controls that require subsurface earth disturbance and you have not satisfied the conditions in Steps 1 - 3, you must contact and consult with the appropriate historic preservation authorities.*

Where you are installing stormwater controls that require subsurface earth disturbance, and you cannot determine in Step 3 that these activities will have no effect on historic properties, then you must contact the relevant SHPO, THPO, or other tribal representative to request their views as to the likelihood that historic properties are potentially present on your site and may be impacted by the installation of these controls.

*Note: Addresses for SHPOs and THPOs may be found on the Advisory Council on Historic Preservation's website ([www.achp.gov/programs.html](http://www.achp.gov/programs.html)). If a tribe does not have a THPO, you should contact the appropriate tribal government office designated by the tribe for this purpose.*

You must submit the following minimum information in order to properly initiate your request for information:

1. Project name (i.e., the name or title most commonly associated with your project);
2. A narrative description of the project;
3. Name, address, phone and fax number, and email address (if available) of the operator;
4. Most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location and boundaries clearly indicated; and
5. Sections of the SWPPP site map (see Part 7.2.4) that show locations where stormwater controls that will cause subsurface earth disturbance will be installed (see Step 1).

Without submitting this minimum information, you will not have been considered to have properly initiated your request. You will need to provide the SHPO, THPO, or other tribal representative **a minimum of 15 calendar days** after they receive these materials to respond to your request for information about your project.

If you do not receive a response within 15 calendar days after receipt by the SHPO, THPO, or other tribal representative of your request, then you may indicate this on your NOI, and no further screening steps are necessary. Or, if the applicable SHPO, THPO, or other tribal representative responds to your request with an indication that no historic properties will be affected by the installation of stormwater controls at your site, then you may indicate this on your NOI, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that EPA hold up authorization based on concerns about potential adverse effects to historic properties. EPA will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.

If within 15 calendar days of receipt of your request the applicable SHPO, THPO, or other tribal representative responds with a request for additional information or for further consultation regarding appropriate measures for treatment or mitigation of effects on historic properties caused by the installation of stormwater controls on your site, you must comply with this request and proceed to Step 5.

Step 5: *Consultation with your applicable SHPO, THPO, or other tribal representative.*

If, following your discussions with the appropriate historic preservation authorities in Step 4, the applicable SHPO, THPO, or tribal representative requests additional information or further consultation, you must respond with such information or consult to determine impacts to historic properties that may be caused by the installation of stormwater controls on your site and appropriate measures for treatment or mitigation of such impacts. If as a result of your

discussions with the applicable SHPO, THPO, or tribal representative, you enter into, and comply with, a written agreement regarding treatment and/or mitigation of impacts on your site, then you may indicate this on your NOI, and no further screening steps are necessary.

If, however, agreement on an appropriate treatment or mitigation plan cannot be reached between you and the SHPO, THPO, or other tribal representative within 30 days of your response to the SHPO, THPO, or other tribal representative's request for additional information or further consultation, you may submit your NOI, but you must indicate that you have not negotiated measures to avoid or mitigate such effects. You must also include in your SWPPP the following documentation:

1. Copies of any written correspondence between you and the SHPO, THPO, or other tribal representative; and
2. A description of any significant remaining disagreements as to mitigation measures between you and the SHPO, THPO, or other tribal representative.

After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, ACHP or other tribal representative may request that EPA place a hold on authorization based upon concerns regarding potential adverse effects to historic properties. EPA, in coordination with the ACHP, will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.



### Appendix F - List of Tier 3, Tier 2, and Tier 2.5 Waters

EPA's CGP has special requirements for discharges to waters that receive Tier 2, Tier 2.5, or Tier 3 protections for antidegradation purposes. See Parts 1.1.8 and 3.2.

EPA's antidegradation regulation, at 40 CFR 131.12, provides a framework for maintaining and protecting water quality for: (1) existing uses (known as "Tier 1"); (2) high quality waters by establishing a process for authorizing the lowering of water quality where existing water quality exceeds levels needed to support propagation of fish, shellfish, and wildlife and recreation in and on the water (known as "Tier 2"); and (3) for Outstanding National Resource Waters (known as "Tier 3"). While EPA's antidegradation regulation only outlines three levels of antidegradation protection, some states and tribes include an additional level of antidegradation protection between Tier 2 and Tier 3 (sometimes known as "Tier 2.5").

High quality (Tier 2) waters may be identified on a parameter-by-parameter basis or on a water body-by-water body basis consistent with the requirements of 40 CFR 131.12(a)(2). States and tribes using a parameter-by-parameter basis (sometimes called a "pollutant-by-pollutant approach") do not maintain a list of Tier 2 waters, but instead identify a high quality water at the time an entity proposes an activity that would lower water quality. In contrast, states and tribes using a water body-by-water body basis typically identify high quality waters in advance on a list by weighing a variety of factors (e.g., chemical, physical, biological, and other information) to classify a water body's overall quality.

The list below is provided as a resource for operators who must determine whether they discharge to a Tier 2, Tier 2.5, or Tier 3 water. Where available, the table lists waters specifically identified for Tier 2, Tier 2.5, or Tier 3 protection by a water quality standard authority (e.g., a state or tribe). Operators should not assume that a water does not receive Tier 2, Tier 2.5, or Tier 3 protection solely based on the absence of information in this table. Evaluation regarding antidegradation protections for a specific water may need to be done on a case-by-case basis, especially where the state or tribe uses the parameter-by-parameter approach to identify whether water quality is better than necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water.

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
MAR100000	<b>Commonwealth of Massachusetts, except Indian Country lands</b>	
	Tier 2, Tier 2.5, and 3 waters are identified and listed in the Massachusetts Water Quality Standards 314 CMR 4.00. Surface water qualifiers that correspond with Tier classifications are defined at 314 CMR 4.06(1)(d)m and listed in tables and figures at the end of 314 CMR 4.06. See MassDEP's web page at: <a href="http://www.mass.gov/eea/agencies/massdep/water/regulations/314-cmr-4-00-mass-surface-water-quality-standards.html">http://www.mass.gov/eea/agencies/massdep/water/regulations/314-cmr-4-00-mass-surface-water-quality-standards.html</a> . See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-massachusetts">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-massachusetts</a>	
	Tier 2	Listed as "High Quality Waters", and all wetlands that are not designated as an Outstanding Resource Water.
	Tier 2.5	Listed as "Outstanding Resource Water", "Public Water Supply", "Tributary to Public Water Supply", all wetlands bordering Outstanding Resource Waters, and vernal pools.
Tier 3	Defined as "Special Resource Water". Note: No waters have been identified as a Special Resource Water as of the issuance of this permit.	

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
NHR100000	<b>State of New Hampshire</b>	
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. Tier 2.5 and 3 waters are identified and listed in the New Hampshire Water Quality Standards CHAPTER Env-Wq 1700. Description of the antidegradation tiers are included at CHAPTER Env-Wq 1708 and listed in the tables at. New dischargers and new sources should contact EPA Region 1's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-new-hampshire">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-new-hampshire</a></p>	
	Tier 3	<p>Env-Ws 1708.05(a) Surface waters of national forests and surface waters designated as "natural" under RSA 483:7-a, I shall be considered outstanding resource waters (ORW). "Natural waters" are listed at <a href="http://www.gencourt.state.nh.us/rsg/html/L/483/483-15.htm">http://www.gencourt.state.nh.us/rsg/html/L/483/483-15.htm</a>. Surface waters of national forests are not included in an official list. For further questions, new dischargers and new sources should contact EPA Region 1's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>.</p>
NYR101000	<b>Saint Regis Mohawk Tribe (NY)</b>	
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Saint Regis Mohawk Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 2's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See: <a href="https://www.epa.gov/sites/production/files/2014-12/documents/stregis-tribe.pdf">https://www.epa.gov/sites/production/files/2014-12/documents/stregis-tribe.pdf</a></p>	
	Tier 3	<p>Outstanding Resource Waters. Those waters designated as such by the Tribe. The Waters that may be considered for designation as Outstanding Resource Waters include, but are not limited to, water bodies that are recognized as: (i) Important because of protection through official action, such as Tribal, Federal or State law, Presidential or secretarial action, international treaty, or interstate compact; (ii) Having exceptional recreational significance; (iii) Having exceptional ecological significance; (iv) Having other special environmental, recreational, religious or ecological attributes; or waters whose designation as Outstanding Resource Waters is reasonably necessary for the protection of other waters so designated. New dischargers and new sources should contact EPA Region 2's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>.</p>

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
PRR100000	<p><b>Commonwealth of Puerto Rico</b></p>	
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Puerto Rico Water Quality Standards. New dischargers and new sources should contact EPA Region 2's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-puerto-rico">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-puerto-rico</a></p> <table border="1" data-bbox="375 499 1461 1031"> <tr> <td data-bbox="375 499 505 1031">Tier 3</td> <td data-bbox="505 499 1461 1031"> <p>Tier III waters are those which are classified as either Class SA or Class SE. Class SA waters are defined as "Coastal waters and estuarine waters of high quality and/or exceptional ecological or recreational value whose existing characteristics shall not be altered, except by natural causes, in order to preserve the existing natural phenomena." Class SA waters include bioluminescent lagoons and bays such as La Parguera and Monsio José on the Southern Coast, Bahía de Mosquito in Vieques, and any other coastal or estuarine waters of exceptional quality of high ecological value or recreational which may be designated by Puerto Rico, through Resolution, as requiring this classification for protection of the waters. Class SE waters are defined as "Surface waters and wetlands of exceptional ecological value, whose existing characteristics should not be altered in order to preserve the existing natural phenomena." Class SE waters include Laguna Tortuguero, Laguna Cartagena and any other surface water bodies of exceptional ecological value as may be designated by Puerto Rico through Resolution.</p> </td> </tr> </table>	Tier 3
Tier 3	<p>Tier III waters are those which are classified as either Class SA or Class SE. Class SA waters are defined as "Coastal waters and estuarine waters of high quality and/or exceptional ecological or recreational value whose existing characteristics shall not be altered, except by natural causes, in order to preserve the existing natural phenomena." Class SA waters include bioluminescent lagoons and bays such as La Parguera and Monsio José on the Southern Coast, Bahía de Mosquito in Vieques, and any other coastal or estuarine waters of exceptional quality of high ecological value or recreational which may be designated by Puerto Rico, through Resolution, as requiring this classification for protection of the waters. Class SE waters are defined as "Surface waters and wetlands of exceptional ecological value, whose existing characteristics should not be altered in order to preserve the existing natural phenomena." Class SE waters include Laguna Tortuguero, Laguna Cartagena and any other surface water bodies of exceptional ecological value as may be designated by Puerto Rico through Resolution.</p>	
DCR100000	<p><b>District of Columbia</b></p>	
	<p>New dischargers and new sources should contact EPA Region 3's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. Tier 2.5 waters are identified and listed in the District of Columbia Water Quality Standards. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington-dc">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington-dc</a></p> <table border="1" data-bbox="375 1297 1461 1528"> <tr> <td data-bbox="375 1297 505 1528">Tier 2.5</td> <td data-bbox="505 1297 1461 1528"> <p>Rule 1102.4 SPECIAL WATERS OF THE DISTRICT OF COLUMBIA (SWDC): Any segment or segments of the surface waters of the District that are of water quality better than needed for the current use or have scenic or aesthetic importance shall be designated as Special Waters of the District of Columbia (SWDC). Rock Creek and its tributaries and Battery Kemble Creek and its tributaries are considered Special Waters of the District of Columbia (SWDC) under its antidegradation program.</p> </td> </tr> </table>	Tier 2.5
Tier 2.5	<p>Rule 1102.4 SPECIAL WATERS OF THE DISTRICT OF COLUMBIA (SWDC): Any segment or segments of the surface waters of the District that are of water quality better than needed for the current use or have scenic or aesthetic importance shall be designated as Special Waters of the District of Columbia (SWDC). Rock Creek and its tributaries and Battery Kemble Creek and its tributaries are considered Special Waters of the District of Columbia (SWDC) under its antidegradation program.</p>	
FLR101000	<p><b>Miccosukee Tribe (FL)</b></p> <p>New dischargers and new sources should contact EPA Region 4's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. The Miccosukee Tribe Water Quality Standards includes an additional tier of protection between Tier 2 and 3 that is referred as Tier 2 ¾ for Outstanding Miccosukee Waters. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-miccosukee-tribe-indians-florida">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-miccosukee-tribe-indians-florida</a></p>	

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
	Tier 2 <sup>3</sup> / <sub>4</sub>	<p>Outstanding Miccosukee Waters (OMW): The Miccosukee Tribe recognizes that the waters of its Federal Reservation which are contained within Water Conservation Area 3-A and the Miccosukee Reserved Area constitute the Tribe's highest quality waters and must be preserved in as pristine a condition as possible while at the same time allowing for the activities of man. These ecologically important waters are essential to the survival of the Miccosukee Tribe, therefore: The Miccosukee Tribe hereby designates the waters of its Federal Reservation which are contained within Water Conservation Area 3-A (North Grass, South Grass, Gap) and Miccosukee Reserved Area as Class III-A and Outstanding Miccosukee waters (OMW). The North Grass is defined as that area bounded by the northern boundary of the reservation, the eastern edge of the L-28 levee (which is east of the L-28 canal), the southern edge of the C-60 Canal, and the eastern boundary of the reservation. The South Grass is defined as the area bounded by southern edge of the C-60 canal, the eastern boundary of the reservation, the southern boundary of the reservation, the eastern edge of the L-28 canal (which is south of the L-28 Tieback Canal), a line running north from the L-28 Canal (where the L-28 Canal turns northwest to become the L-28 Tieback Canal) until this line intersects the oil pipeline, the center of the oil pipeline until the oil pipeline intercepts the L-28 Interceptor Canal, and the eastern edge of the L-28 levee (which is east of the L-28 Canal). The Gap is defined as that area which is bounded by the southern boundary of the reservation, the western boundary of the reservation, the northeastern edge of the L-28 Interceptor Canal, the oil pipeline which runs generally south from the L-28 Interceptor Canal until the pipeline intercepts a line running north from the L-28 Canal where the L-28 canal turns northwest to become the L-28 Tieback Canal, and the eastern edge of the L-28 canal (which is south of the L-28 Tieback Canal).</p>
	Tier 3	<p>Tier 3: Outstanding Natural Resource Waters (ONRW): Where high quality waters constitute an Outstanding Tribal resource such as waters of parks and wildlife refuges and waters of exceptional ecological and recreational significance, that water quality shall be maintained and protected. These waters shall be designated as Outstanding Natural Resource Waters (ONRW). Currently, no Tribal waters are designated as ONRW.</p>
<b>Seminole Tribe (FL)</b>		
<p>New dischargers and new sources should contact EPA Region 4's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/sites/production/files/2014-12/documents/seminole_floridawqs.pdf">https://www.epa.gov/sites/production/files/2014-12/documents/seminole_floridawqs.pdf</a></p>		

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
MNR101000	<b>Fond du Lac Band of MN Chippewa</b>	
	Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Fond du Lac Band of MN Chippewa Water Quality Standards. New dischargers and new sources should contact EPA Region 5's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-fond-du-lac-band-minnesota-chippewa-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-fond-du-lac-band-minnesota-chippewa-tribe</a>	
	Tier 3	Six Lakes are presently identified as Tier 3/Outstanding Reservation Resource Waters (ORRW): (1) Dead Fish Lake; (2) Jaskari Lake; (3) Miller (Mud) Lake; (4) Perch Lake; (5) Rice Portage Lake; (6) Wild Rice Lake.
	<b>Grand Portage Band of MN Chippewa</b>	
	Tier 2 waters are identified on a parameter-by-parameter basis. Two subcategories of protection (referred to as outstanding tribal water resource (OTWR)) exist in the Grand Portage Band of MN Chippewa Water Quality Standards as follows: (a) OTWR-Restricted (lowered water quality may be allowed under limited circumstances); (b) OTWR-Prohibited (Discharges and permanent lowering of water quality are prohibited). New dischargers and new sources should contact EPA Region 5's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-grand-portage-band-minnesota-chippewa-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-grand-portage-band-minnesota-chippewa-tribe</a>	
	Tier 2	OTWR-Restricted: All waters, not already classified as Tier 3, are high quality Tier 2 waters (see Grand Portage Reservation Water Quality Standards, Section VI & VII, Pages 14-16).
Tier 3	OTWR-Prohibited: "The portion of Lake Superior north of latitude 47 degrees, 57 minutes, 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and west of the Minnesota-Michigan boundary" (see Section VII, Page 16).	
WIR101000	<b>Bad River Band of Lake Superior Chippewa (WI)</b>	
	Tier 2 waters are identified on a water body-by-water body basis. Tier 2, 2.5, and 3 classifications are included in the Bad River Band of Lake Superior Chippewa Water Quality Standards. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-bad-river-band-lake-superior-chippewa-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-bad-river-band-lake-superior-chippewa-tribe</a>	
	Tier 2	Any surface water not specifically classified as Outstanding Tribal Resource Water or Outstanding Resource Water is classified as Exceptional Resource Water (Anishinaabosibiing).
Tier 2.5	Outstanding Resource Waters: a portion of Bad River, from downstream the confluence with the White River to Lake Superior, White River, Marengo River, Graveyard Creek, Bear Trap Creek, Wood Creek, Brunsweler River, Tyler Forks, Bell Creek, and Vaughn Creek.	

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
	Tier 3	Outstanding Tribal Resource Waters: Kakagon Slough and the lower wetland reaches of its tributaries that support wild rice, Kakagon River, Bad River Slough, Honest John Lake, Bog Lake, a portion of Bad River, from where it enters the Reservation through the confluence with the White River, and Potato River.
	<b>Lac du Flambeau Band of the Lake Superior Chippewa</b>	
	Tier 2 waters are identified on a water body-by-water body basis. Tier 2, 2.5, and 3 classifications are included in the Lac du Flambeau Band of the Lake Superior Chippewa Water Quality Standards. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-lac-du-flambeau-band-lake-superior-chippewa-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-lac-du-flambeau-band-lake-superior-chippewa-tribe</a>	
	Tier 2	All named waters, including wetlands, not specified under an Antidegradation classification are classified as Tribal Resource Water (Tier 2). Unclassified Named Waters (Tier 2): Buckskin Lake; Flambeau Lake; Long (Interlaken) Lake); Marland's Lake (Sec. 13, T40NR4E); Moss Lake; Pokegema Lake.
	Tier 2.5	Exceptional Tribal Resource Waters: Bills Lake, Birch Lake, Bobidosh Lake, Bog Lake (SE SE Sec. 31, T40NR6E), Bolton Lake, Broken Bow Lake, Chewalah Lake, Clear Lake (Sec. 2, T39NR4E), Corn Great, Great, Corn Lake, Little "Least/Lesser", Crawling Stone Lake, Big, Crawling Stone Lake, Little, Crescent Lake, Crooked Lake, Big, David Lake, Ellerson Lake, Middle, Ellerson Lake, West, Elsie Lake "Boundary Lake", Fat Lake, Fence Lake, Gresham Creek, Green Lake (NW NW Sec. 19, T41R6E), Grey Lake, Gunlock Lake, Haskell Lake, Headflyer Lake (Sec. 19, T41NR5E), Highway Lake (NW NW Sec. 19, T41NR5E), Horsehead Lake (SE SW Sec. 9, T40NR5E), Hutton's Creek, Ike Walton Lake, Lily Lake (SE SW Sec. 35, T40NR5E), Little Ten Lake, Lodge Lake "L. Rice" (NW NW Sec. 8, T41NR6E), Lucy Lake, Mindys Lake (Sec. 8, T40NR5E), Minette Lake, Mitten Lake, Monk's Lake (Sec. 13, T40NR5E), Moving Cloud Lake, Mud Creek, Muskesin Lake, Patterson Lake, Placid Twin Lake (North), Placid Twin Lake (South), Plummer Lake, Poupart Lake, Prairie Lake (NE SW Sec. 13, T40NR4E), Raven Lake, Ross Allen Lake, Sand Lake, Little, Scott Lake (Sec. 22, T40N, R4E), Shishebogama Lake, Signal Lake, Snort Lake (Sec. 5, T41N, R6E), Spring Lake "Jerms", Squirrel Lake, Statenaker Lake "Hollow", Stearns Lake "Hourglass", Sugarbush "Hidden Lake" (NW NW Sec. 17, T41NR5E), Sugarbush Creek, Sugarbush Lake, Little, Sugarbush Lake, Lower, Sugarbush Lake, Middle, Sugarbush Lake, Upper, Sunfish Lake, Tippecanoe Lake, Tomahawk River, To-To Tom Lake, Toulish Lake, Trout River, Warrior Lake, White Sand Lake, Whitefish Lake "Cattail Lake" (Sec. 34, T40N5R), Wishow Lake, Wyandock Lake.
	Tier 3	Outstanding Tribal Resource Waters: Bear River (1st bridge to Reservation boundary), Big Springs (Sec. 25, T40NR4E), Black Lake, Cranberry Lake, Doud Lake, Eagle Lake, Gene Lake, Johnson Springs, Little Trout Lake, Lost Lake (Sect. 1, T41NR4E), Mishonagon Creek, Munnomin (Jesse, Duck) Lake, Negani (Hegani) Lake, Reservation Line Lake, Spring Creek, Tank Lake, Thomas Lake, Wild Rice Lake, Zee Lake.

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority		
NMR100000	<p><b>State of New Mexico</b></p>		
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the State of New Mexico Water Quality Standards. New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-new-mexico">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-new-mexico</a></p>		
	<table border="1"> <tr> <td data-bbox="375 499 505 642">Tier 2</td> <td data-bbox="505 499 1461 642">If you need assistance determining if your discharge is to a Tier 2 waterbody, please contact the NMED Surface Water Quality Bureau's Stormwater Program at <a href="https://www.env.nm.gov/swab/StormWater/index.html">https://www.env.nm.gov/swab/StormWater/index.html</a>.</td> </tr> </table>	Tier 2	If you need assistance determining if your discharge is to a Tier 2 waterbody, please contact the NMED Surface Water Quality Bureau's Stormwater Program at <a href="https://www.env.nm.gov/swab/StormWater/index.html">https://www.env.nm.gov/swab/StormWater/index.html</a> .
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Tier 3	See <a href="https://www.env.nm.gov/swab/ONRW/">https://www.env.nm.gov/swab/ONRW/</a> for current list of NMED's Tier 3/Outstanding National Resource Waters. See also New Mexico's Water Quality Standards at 20.6.4.9.D NMAC.		
NMR101000	<p><b>Ohkay Owingeh (NM) (formerly the Pueblo of San Juan)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-ohkay-owingeh-pueblo-formerly-pueblo-san-juan">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-ohkay-owingeh-pueblo-formerly-pueblo-san-juan</a></p>		
	<p><b>Pueblo of Acoma (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-acoma">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-acoma</a></p>		
	<p><b>Pueblo of Isleta (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-isleta">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-isleta</a></p>		
	<p><b>Pueblo of Nambe (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-nambe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-nambe</a></p>		
<p><b>Pueblo of Picuris (NM)</b></p>			
<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. Tier 2, 2.5, and 3 classifications are included in the Pueblo of Picuris Water Quality Standards. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-picuris">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-picuris</a></p>			

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority		
	<p><b>Pueblo of Pojoaque (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-pojoaque">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-pojoaque</a></p>		
	<p><b>Pueblo of Sandia (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-sandia">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-sandia</a></p>		
	<p><b>Pueblo of Santa Ana (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-santa-ana">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-santa-ana</a></p>		
	<p><b>Pueblo of Santa Clara (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-santa-clara">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-santa-clara</a></p>		
	<p><b>Pueblo of Taos (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-taos">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-taos</a></p>		
	<table border="1"> <tr> <td data-bbox="375 1409 505 1434">Tier 3</td> <td data-bbox="505 1409 1461 1434">Outstanding Tribal Resource Waters: Mountain Lakes; Mountain Streams &amp; Springs;</td> </tr> </table>	Tier 3	Outstanding Tribal Resource Waters: Mountain Lakes; Mountain Streams & Springs;
Tier 3	Outstanding Tribal Resource Waters: Mountain Lakes; Mountain Streams & Springs;		
	<p><b>Pueblo of Tesuque (NM)</b></p>		
	<p>New dischargers and new sources should contact EPA Region 6's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-tesuque">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pueblo-tesuque</a></p>		
COR10I000	<p><b>Ute Mountain Ute Tribe</b></p> <p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Ute Mountain Ute Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 8's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also:</p>		



Permit Number	Areas of Coverage/Where EPA Is Permitting Authority		
	<p data-bbox="386 243 1325 306"><a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-ute-mountain-ute-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-ute-mountain-ute-tribe</a></p> <table border="1" data-bbox="386 306 1461 485"> <tr> <td data-bbox="386 380 505 411">Tier 3</td> <td data-bbox="505 317 1430 474">Outstanding Tribal Resource Waters: 1. Ute Spring and unnamed creek from Ute Spring downstream within Section 12, TWP35N R18W (Colorado). 2. Allen Canyon Creek, Sections 17, 20, 29, 30, 31, TWP 35S, R21E (Utah) 3. "Lopez" Spring and unnamed creek tributary to and downstream from the spring, within Section 35, TWP 34N, R18W</td> </tr> </table>	Tier 3	Outstanding Tribal Resource Waters: 1. Ute Spring and unnamed creek from Ute Spring downstream within Section 12, TWP35N R18W (Colorado). 2. Allen Canyon Creek, Sections 17, 20, 29, 30, 31, TWP 35S, R21E (Utah) 3. "Lopez" Spring and unnamed creek tributary to and downstream from the spring, within Section 35, TWP 34N, R18W
Tier 3	Outstanding Tribal Resource Waters: 1. Ute Spring and unnamed creek from Ute Spring downstream within Section 12, TWP35N R18W (Colorado). 2. Allen Canyon Creek, Sections 17, 20, 29, 30, 31, TWP 35S, R21E (Utah) 3. "Lopez" Spring and unnamed creek tributary to and downstream from the spring, within Section 35, TWP 34N, R18W		
MTR101000	<p data-bbox="386 495 1260 527"><b>Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (MT)</b></p>		
	<p data-bbox="386 537 1455 695">Tier 2 waters are identified on a water body-by-water body basis. There is not a Tier 2.5 classification identified in the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation Water Quality Standards. New dischargers and new sources should contact EPA Region 8's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-assiniboine-and-sioux-tribes-fort-peck-indian">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-assiniboine-and-sioux-tribes-fort-peck-indian</a></p>		
	<table border="1" data-bbox="386 789 1461 957"> <tr> <td data-bbox="386 852 505 884">Tier 2</td> <td data-bbox="505 789 1443 947">Most Tribal Waters will qualify as Tier 2 waters. Unless the water body is not attaining the Clean Water Act Section 101 (a)(2) goals, the water body has received an OTRW designation, or there is no assimilative capacity for pollutants to protect existing and designated uses, it is likely that the water body will receive Tier 2 protection.</td> </tr> </table>	Tier 2	Most Tribal Waters will qualify as Tier 2 waters. Unless the water body is not attaining the Clean Water Act Section 101 (a)(2) goals, the water body has received an OTRW designation, or there is no assimilative capacity for pollutants to protect existing and designated uses, it is likely that the water body will receive Tier 2 protection.
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	<p data-bbox="386 968 1330 999"><b>Confederated Salish and Kootenai Tribes of the Flathead Reservation (MT)</b></p>		
	<p data-bbox="386 1010 1455 1167">Tier 2 waters are identified on a water body-by-water body basis. There is not a Tier 2.5 classification identified in the Confederated Salish and Kootenai Tribes of the Flathead Reservation Water Quality Standards. New dischargers and new sources should contact EPA Region 8's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-salish-and-kootenai-tribes-flathead">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-salish-and-kootenai-tribes-flathead</a></p>		
<table border="1" data-bbox="386 1251 1461 1325"> <tr> <td data-bbox="386 1272 505 1304">Tier 3</td> <td data-bbox="505 1251 1321 1314">The following are Tier 3 waters: All waters located within Tribally designated primitive or wilderness areas.</td> </tr> </table>	Tier 3	The following are Tier 3 waters: All waters located within Tribally designated primitive or wilderness areas.	
Tier 3	The following are Tier 3 waters: All waters located within Tribally designated primitive or wilderness areas.		
<p data-bbox="386 1335 704 1367"><b>Northern Cheyenne (MT)</b></p>			
<p data-bbox="386 1377 1455 1535">Tier 2 waters are identified on a water body-by-water body basis. There is not a Tier 2.5 classification identified in the Northern Cheyenne Water Quality Standards. New dischargers and new sources should contact EPA Region 8's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-northern-cheyenne-tribe-northern-cheyenne-reservation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-northern-cheyenne-tribe-northern-cheyenne-reservation</a></p>			
ASR100000	<p data-bbox="386 1629 732 1661"><b>Island of American Samoa</b></p>		
	<p data-bbox="386 1671 1430 1803">New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf">https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf</a></p>		

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority		
AZR10I000	<p><b>Hopi Tribe (AZ)</b></p>		
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Hopi Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hopi-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hopi-tribe</a></p>		
	<table border="1"> <tr> <td data-bbox="375 499 505 575">Tier 3</td> <td data-bbox="505 499 1461 575">Unique Waters: In the Moencopi Wash watershed, from Blue Canyon Springs to the confluence of Begashibito Wash.</td> </tr> </table>	Tier 3	Unique Waters: In the Moencopi Wash watershed, from Blue Canyon Springs to the confluence of Begashibito Wash.
	Tier 3	Unique Waters: In the Moencopi Wash watershed, from Blue Canyon Springs to the confluence of Begashibito Wash.	
	<p><b>Hualapai Indian Tribe (AZ)</b></p>		
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Hualapai Indian Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hualapai-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hualapai-tribe</a></p>		
	<table border="1"> <tr> <td data-bbox="375 869 505 1075">Tier 3</td> <td data-bbox="505 869 1461 1075">Segments assigned as Tier 3: Spencer; Meriwhitica; Willow Spring; Upper Milkweed Spring; Bridge Canyon; Travertine Spring; Travertine Falls; Diamond Creek; Diamond Creek Spring; Blue Mountain; Metuck; Peach Springs Spring; Westwater; Clay Tank; Hockey Puck; Pocamote Spring; Mohawk Spring; Granite Spring; Three Spring; Warm Spring; Honga Spring; National Canyon Spring; National Canyon; Moss Spring.</td> </tr> </table>	Tier 3	Segments assigned as Tier 3: Spencer; Meriwhitica; Willow Spring; Upper Milkweed Spring; Bridge Canyon; Travertine Spring; Travertine Falls; Diamond Creek; Diamond Creek Spring; Blue Mountain; Metuck; Peach Springs Spring; Westwater; Clay Tank; Hockey Puck; Pocamote Spring; Mohawk Spring; Granite Spring; Three Spring; Warm Spring; Honga Spring; National Canyon Spring; National Canyon; Moss Spring.
	Tier 3	Segments assigned as Tier 3: Spencer; Meriwhitica; Willow Spring; Upper Milkweed Spring; Bridge Canyon; Travertine Spring; Travertine Falls; Diamond Creek; Diamond Creek Spring; Blue Mountain; Metuck; Peach Springs Spring; Westwater; Clay Tank; Hockey Puck; Pocamote Spring; Mohawk Spring; Granite Spring; Three Spring; Warm Spring; Honga Spring; National Canyon Spring; National Canyon; Moss Spring.	
<p><b>Navajo Nation (AZ, NM, UT)</b></p>			
<p>New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-navajo-nation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-navajo-nation</a></p>			
<p><b>White Mountain Apache Tribe (AZ)</b></p>			
<p>Tier 2 waters are identified on a water body-by-water body basis. Tier classifications are identified in Appendix B of the White Mountain Apache Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-white-mountain-apache-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-white-mountain-apache-tribe</a></p>			

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
	Tier 2	<p>High Quality Waters: East Fork White River, above R52 Road; Paradise Creek, above Wohlenberg; Ord Creek; Smith Cienega; Bull Cienega; Smith Creek; Big Bonito; Tonto Creek, below Y47 Crossing; Crooked Creek; Boggy Creek; Little Bonito Creek, above Y55 Crossing; Flash Creek; Squaw Creek; Hurricane Lake; Hurricane Creek; Hughey Creek; Bonito Cienega; West Fork Black River; Hall Cienega; Purcell Cienega; Thompson Creek; Cibecue Creek in Box Canyon to Salt river; Rock Springs Creek; Willow Creek (Lower Canyon Cr.).</p> <p>Sensitive Waters (treated the same manner as Tier 2): East Fork White River below R52 Road, above Rock Cr; Lofer Cienega Creek; Carrizo Creek above Corduroy; Cedar Creek; Big Canyon (E. Cedar Creek); Middle Cedar Creek; West Cedar Creek; Cibecue Creek, Box Canyon up to Confluence with Salt Creek; Spring Creek; Salt Creek; Cibecue Creek, from confluence w/Salt Cr. To Big Springs; Cibecue Creek, above Big Springs; Salt Draw; Canyon Creek S. of Chediski Farms; Oak Creek; Canyon Creek, N. of Chediski Farms.</p>
	Tier 3	<p>Outstanding Waters: East Fork White River, in Wilderness area; Pumpkin Lake.</p>
CAR10I000	<b>Big Pine Band of Owens Valley (CA)</b>	
	<p>New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-big-pine-paiute-tribe-owens-valley">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-big-pine-paiute-tribe-owens-valley</a></p>	
	<b>Hoopa Valley Tribe (CA)</b>	
	<p>New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hoopa-valley-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-hoopa-valley-tribe</a></p>	
	<b>Paiute-Shoshone Indians of the Bishop Community (CA)</b>	
<p>New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-bishop-paiute-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-bishop-paiute-tribe</a></p>		
<b>Twenty-Nine Palms (CA)</b>		
<p>New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-twenty-nine-palms-band-mission-indians">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-twenty-nine-palms-band-mission-indians</a></p>		

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority	
GUR100000	<b>Island of Guam</b>	
	New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See also: <a href="https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf">https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf</a>	
JAR100000	<b>Johnston Atoll</b>	
	New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>	
MPR100000	<b>Commonwealth of the Northern Mariana Islands</b>	
	New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See also: <a href="https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf">https://www.epa.gov/sites/production/files/2014-12/documents/aswqs.pdf</a>	
MWR100000	<b>Midway Island and Wake Island</b>	
	New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>	
NVR100001	<b>Pyramid Lake Paiute (NV)</b>	
	New dischargers and new sources should contact EPA Region 9's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pyramid-lake-paiute-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-pyramid-lake-paiute-tribe</a>	
IDR100000	<b>State of Idaho</b>	
	Tier 2 waters are identified on a water body-by-water body basis. There is not a Tier 2.5 classification identified in the State of Idaho Water Quality Standards. New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-idaho">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-idaho</a>	
	Tier 2 and Tier 3	For Tier 2 and Tier 3 waters, please consult the most recent approved version of Idaho's Idaho Integrated Report, available at: <a href="http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/">http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/</a> and the closest regional office of the Idaho Department of Environmental Quality: <a href="http://www.deq.idaho.gov/regional-offices-issues/">http://www.deq.idaho.gov/regional-offices-issues/</a> .
IDR101000	<b>Coeur D'Alene Tribe (ID)</b>	
	Tier 2 waters are identified on a water body-by-water body basis. There is not a Tier 2.5 classification identified in the Coeur D'Alene Tribe Water Quality Standards. New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a> . See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-coeur-dalene-tribe-indians">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-coeur-dalene-tribe-indians</a>	

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority
ORR10I000	<p><b>Confederated Tribes of the Warm Springs Reservation (OR)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-warm-springs-indian-reservation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-warm-springs-indian-reservation</a></p>
	<p><b>Confederated Tribes of Umatilla (OR)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-umatilla-indian-reservation-oregon">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-umatilla-indian-reservation-oregon</a></p>
WAR10I000	<p><b>Confederated Tribes of the Chehalis Reservation (WA)</b></p>
	<p>Tier 2 waters are identified on a parameter-by-parameter basis. There is not a Tier 2.5 classification identified in the Confederated Tribes of the Chehalis Reservation Water Quality Standards. New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-chehalis-reservation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-chehalis-reservation</a></p>
	<p><b>Confederated Tribes of the Colville Reservation (WA)</b></p>
	<p>EPA established federal water quality standards for the Confederated Tribes of the Colville Reservation at 40 CFR 131.35. See: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-colville-reservation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-confederated-tribes-colville-reservation</a></p>
	<p><b>Kalispel Indian Community (WA)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-kalispel-indian-community-kalispel-reservation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-kalispel-indian-community-kalispel-reservation</a></p>
	<p><b>Lummi Tribe (WA)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-lummi-nation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-lummi-nation</a></p>
<p><b>Makah Indian Nation (WA)</b></p>	
<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-makah-indian-nation">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-makah-indian-nation</a></p>	

Permit Number	Areas of Coverage/Where EPA Is Permitting Authority
	<p><b>Port Gamble S'Klallam (WA)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-port-gamble-sklallam-tribe">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-port-gamble-sklallam-tribe</a></p>
	<p><b>Puyallup Tribe of Indians (WA)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-puyallup-tribe-indians">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-puyallup-tribe-indians</a></p>
	<p><b>Spokane Tribe of Indians (WA)</b></p>
	<p>New dischargers and new sources should contact EPA Region 10's stormwater coordinator found at <a href="https://www.epa.gov/npdes/contact-us-stormwater#regional">https://www.epa.gov/npdes/contact-us-stormwater#regional</a>. See also: <a href="https://www.epa.gov/wqs-tech/water-quality-standards-regulations-spokane-tribe-indians">https://www.epa.gov/wqs-tech/water-quality-standards-regulations-spokane-tribe-indians</a></p>

## **Appendix G – Buffer Requirements**

The purpose of this appendix is to assist you in complying with the requirements in Part 2.2.1 of the permit regarding the establishment of natural buffers and/or equivalent sediment controls. This appendix is organized as follows:

G.1 Sites That Are Required to Provide and Maintain Natural Buffers and/or Equivalent Erosion and Sediment controls .....	2
G.2 Compliance Alternatives and Exceptions .....	2
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G.2.2 Exceptions to the Compliance Alternatives .....	3
G.2.3 Requirements for Providing and Maintaining Natural Buffers .....	4
G.2.4 Guidance for Providing the Equivalent Sediment Reduction as a 50-foot Buffer .....	7
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G.3.2 Small Residential Lot Compliance Alternatives .....	11

## G.1 SITES THAT ARE REQUIRED TO PROVIDE AND MAINTAIN NATURAL BUFFERS AND/OR EQUIVALENT EROSION AND SEDIMENT CONTROLS

The requirement in Part 2.2.1 to provide and maintain natural buffers and/or equivalent erosion and sediment controls applies for any discharges to waters of the U.S. located within 50 feet of your site's earth disturbances. If the water of the U.S. is not located within 50 feet of earth-disturbing activities, Part 2.2.1 does not apply. See Figure G-1.

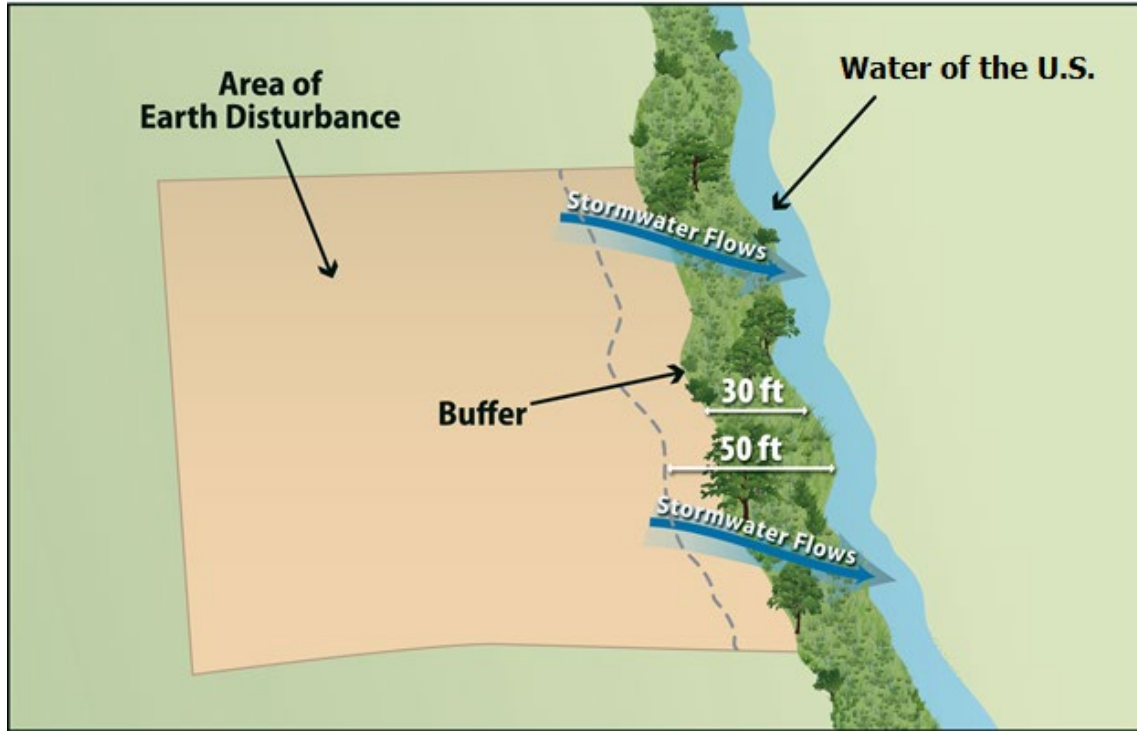


Figure G-1 Example of earth-disturbing activities within 50 feet of a water of the U.S.

## G.2 COMPLIANCE ALTERNATIVES AND EXCEPTIONS

### G.2.1 Compliance Alternatives

If Part 2.2.1 applies to your site, you have three compliance alternatives from which you can choose, unless you qualify for any of the exceptions (see below and Part 2.2.1.a):

1. Provide and maintain a 50-foot undisturbed natural buffer; or
2. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
3. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer. <sup>1</sup>

The compliance alternative selected must be maintained throughout the duration of permit coverage.

See Part G.2.2 below for exceptions to the compliance alternatives.



See Part G.2.3 for requirements applicable to providing and maintaining natural buffers under compliance alternatives 1 and 2 above.

See Part G.2.4 for requirements applicable to providing erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer under compliance alternatives 2 and 3 above.

## **G.2.2 Exceptions to the Compliance Alternatives**

The following exceptions apply to the requirement to implement one of the Part 2.2.1.a compliance alternatives (see also Part 2.2.1.b):

- The following disturbances within 50 feet of a water of the U.S. are exempt from the requirements Part 2.2.1 and this Appendix:
  - Construction approved under a CWA Section 404 permit; or
  - Construction of a water-dependent structure or water access areas (*e.g., pier, boat ramp, trail*).
- If there is no discharge of stormwater to waters of the U.S. through the area between the disturbed portions of the site and any waters of the U.S. located within 50 feet of your site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix. This includes situations where you have implemented controls measures, such as a berm or other barrier, that will prevent such discharges.
- Where no natural buffer exists due to preexisting development disturbances (*e.g., structures, impervious surfaces*) that occurred prior to the initiation of planning for the current development of the site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix.

Where some natural buffer exists but portions of the area within 50 feet of the water of the U.S. are occupied by preexisting development disturbances, you are required to comply with the requirements in Part 2.2.1 and this Appendix. For the purposes of calculating the sediment load reduction for either compliance alternative 2 or 3, you are not expected to compensate for the reduction in buffer function that would have resulted from the area covered by these preexisting disturbances. Clarity about how to implement the compliance alternatives for these situations is provided in G.2.3 and G.2.4 below.

If during your project, you will disturb any portion of these preexisting disturbances, the area removed will be deducted from the area treated as a "natural buffer."

- For "linear construction sites" (see Appendix A), you are not required to comply with this requirement if site constraints (*e.g., limited right-of-way*) make it infeasible to implement one of the Part 2.2.1.a compliance alternatives, provided that, to the extent feasible, you limit disturbances within 50 feet of any waters of the U.S. and/or you provide supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 50 feet of the water of the U.S. You must also document in your SWPPP your rationale for why it is infeasible for you to implement one of the Part 2.2.1.a compliance alternatives, and describe any buffer width retained and supplemental erosion and sediment controls installed.
- For "small residential lot" construction (*i.e., a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential*

*project that will ultimately disturb greater than or equal to 1 acre), you have the option of complying with one of the "small residential lot" compliance alternatives in Part G.3 of this appendix.*

Note that you must document in your SWPPP if any disturbances related to any of the above exceptions occurs within the buffer area on your site.

### **G.2.3 Requirements for Providing and Maintaining Natural Buffers**

This part of the appendix applies to you if you choose compliance alternative 1 (50-foot buffer), compliance alternative 2 (a buffer of < 50 feet supplemented by additional erosion and sediment controls that achieve the equivalent sediment load reduction as the 50-foot buffer), or if you are providing a buffer in compliance with one of the "small residential lot" compliance alternatives in Part G.3.

#### **Buffer Width Measurement**

Where you are retaining a buffer of any size, the buffer should be measured perpendicularly from any of the following points, whichever is further landward from the water:

1. The ordinary high water mark of the water body, defined as the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris; or
2. The edge of the stream or river bank, bluff, or cliff, whichever is applicable.

Refer to Figure G-2 and Figure G-3. You may find that specifically measuring these points is challenging if the flow path of the water of the U.S. changes frequently, thereby causing the measurement line for the buffer to fluctuate continuously along the path of the waterbody. Where this is the case, EPA suggests that rather than measuring each change or deviation along the water's edge, it may be easier to select regular intervals from which to conduct your measurement. For instance, you may elect to conduct your buffer measurement every 5 to 10 feet along the length of the water.

Additionally, note that if earth-disturbing activities will take place on both sides of a water of the U.S. that flows through your site, to the extent that you are establishing a buffer around this water, it must be established on both sides. For example, if you choose compliance alternative 1, and your project calls for disturbances on both sides of a small stream, you would need to retain the full 50 feet of buffer on both sides of the water. However, if your construction activities will only occur on one side of the stream, you would only need to retain the 50-foot buffer on the side of the stream where the earth-disturbance will occur.

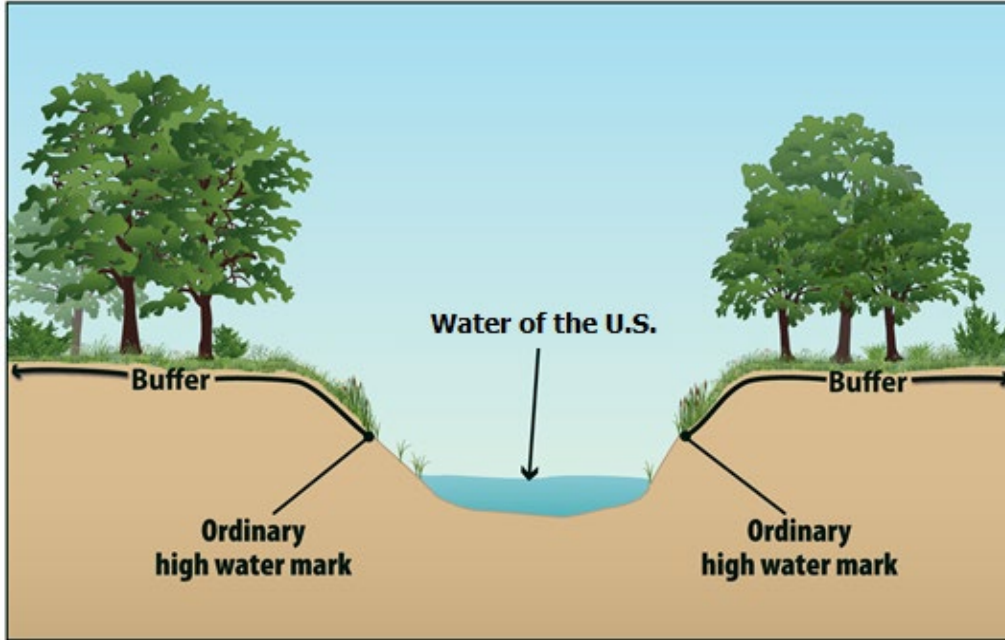


Figure G-2 Buffer measurement from the ordinary high water mark of the water body, as indicated by a clear natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, and/or the presence of litter/debris.

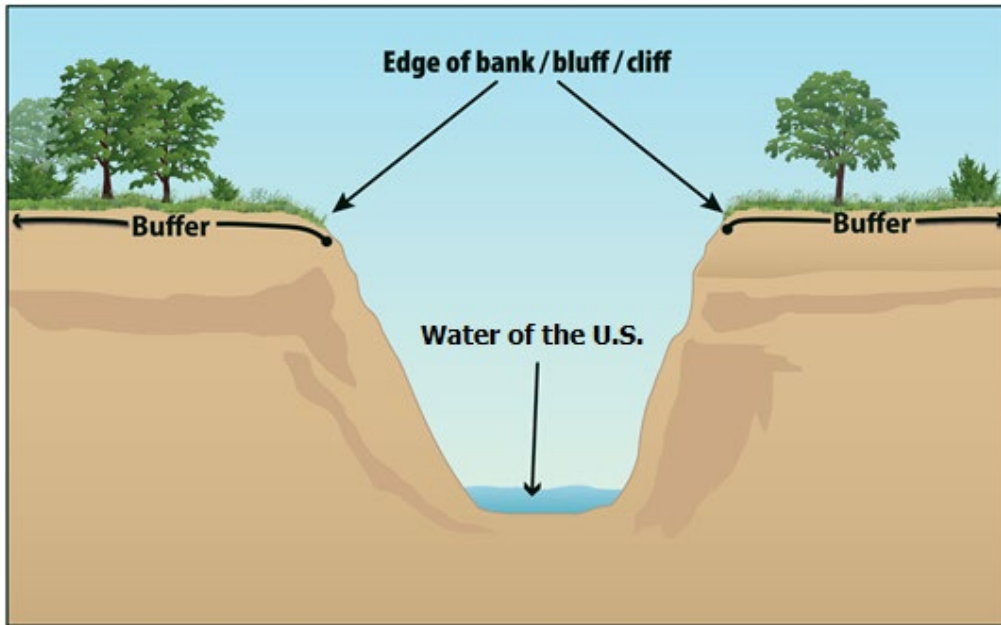


Figure G-3 Buffer measurement from the edge of the bank, bluff, or cliff, whichever is applicable.

**Limits to Disturbance Within the Buffer**

You are considered to be in compliance with the requirement to provide and maintain a natural buffer if you retain and protect from construction activities the natural buffer that existed prior to the commencement of construction. If the buffer area contains no vegetation prior to the commencement of construction (e.g., sand or rocky surface), you are not required to plant vegetation. As noted above, any preexisting structures or

impervious surfaces may occur in the natural buffer provided you retain and protect from disturbance the buffer areas outside of the preexisting disturbance.

To ensure that the water quality protection benefits of the buffer are retained during construction, you are prohibited from conducting any earth-disturbing activities within the buffer during permit coverage. In furtherance of this requirement, **prior to commencing earth-disturbing activities on your site, you must delineate, and clearly mark off, with flags, tape, or a similar marking device, the buffer area on your site.** The purpose of this requirement is to make the buffer area clearly visible to the people working on your site so that unintended disturbances are avoided.

While you are not required to enhance the quality of the vegetation that already exists within the buffer, you are encouraged to do so where such improvements will enhance the water quality protection benefits of the buffer. (Note that any disturbances within the buffer related to buffer enhancement are permitted and do not constitute construction disturbances.) For instance, you may want to target plantings where limited vegetation exists, or replace existing vegetation where invasive or noxious plant species (see <http://plants.usda.gov/java/noxiousDriver>) have taken over. In the case of invasive or noxious species, you may want to remove and replace them with a diversity of native trees, shrubs, and herbaceous plants that are well-adapted to the climatic, soil, and hydrologic conditions on the site. You are also encouraged to limit the removal of naturally deposited leaf litter, woody debris, and other biomass, as this material contributes to the ability of the buffer to retain water and filter pollutants.

If a portion of the buffer area adjacent to the water of the U.S. is owned by another party and is not under your control, you are only required to retain and protect from construction activities the portion of the buffer area that is under your control. For example, if you comply with compliance alternative 1 (provide and maintain a 50-foot buffer), but 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you must only retain and protect from construction activities the 40-foot buffer area that occurs adjacent to the property on which your construction activities are taking place. EPA would consider you to be in compliance with this requirement regardless of the activities that are taking place in the 10-foot area that is owned by a different party than the land on which your construction activities are taking place that you have no control over.

### **Discharges to the Buffer**

**You must ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls** (for example, you must comply with the Part 2.2.3 requirement to install sediment controls along any perimeter areas of the site that will receive pollutant discharges), **and if necessary to prevent erosion caused by stormwater flows within the buffer, you must use velocity dissipation devices.** The purpose of this requirement is to decrease the rate of stormwater flow and encourage infiltration so that the pollutant filtering functions of the buffer will be achieved. To comply with this requirement, construction operators typically will use devices that physically dissipate stormwater flows so that the discharge entering the buffer is spread out and slowed down.

### **SWPPP Documentation**

You are required to document in your SWPPP the natural buffer width that is retained. For example, if you are complying with alternative 1, you must specify in your SWPPP that you are providing a 50-foot buffer. Or, if you will be complying with alternative 2, you must document the reduced width of the buffer you will be retaining (and you must also

describe the erosion and sediment controls you will use to achieve an equivalent sediment reduction, as required in Part G.2.4 below). Note that you must also show any buffers on your site map in your SWPPP consistent with Part 7.2.4.i. Additionally, if any disturbances related to the exceptions in Part G.2.2 occur within the buffer area, you must document this in the SWPPP.

#### **G.2.4 Guidance for Providing the Equivalent Sediment Reduction as a 50-foot Buffer**

This part of the appendix applies to you if you choose compliance alternative 2 (provide and maintain a buffer that is less than 50 feet that is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot buffer) or compliance alternative 3 (implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot buffer).

##### **Determine Whether it is Feasible to Provide a Reduced Buffer**

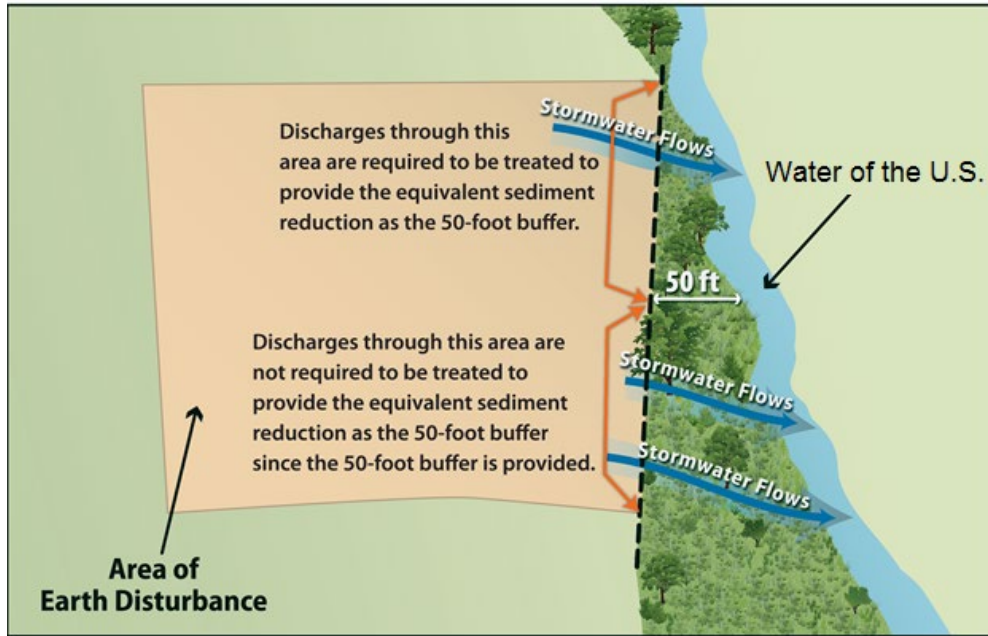
EPA recognizes that there will be a number of situations in which it will be infeasible to provide and maintain a buffer of any width. While some of these situations may exempt you from the buffer requirement entirely (see G.2.2), if you do not qualify for one of these exemptions, there still may be conditions or circumstances at your site that make it infeasible to provide a natural buffer. For example, there may be sites where a significant portion of the property on which the earth-disturbing activities will occur is located within the buffer area, thereby precluding the retention of natural buffer areas.

Therefore, you should choose compliance alternative 2 if it is feasible for you to retain some natural buffer on your site. (Note: For any buffer width retained, you are required to comply with the requirements in Part G.2.3, above, concerning the retention of vegetation and restricting earth disturbances.) Similarly, if you determine that it is infeasible to provide a natural buffer of any size during construction, you should choose alternative 3.

##### **Design Controls That Provide Equivalent Sediment Reduction as 50-foot Buffer**

You must next determine what additional controls must be implemented on your site that, alone or in combination with any retained natural buffer, achieve a reduction in sediment equivalent to that achieved by a 50-foot buffer.

Note that if only a portion of the natural buffer is less than 50 feet, you are only required to implement erosion and sediment controls that achieve the sediment load reduction equivalent to the 50-foot buffer for discharges through that area. You would not be required to provide additional treatment of stormwater discharges that flow through 50 feet or more of natural buffer. See Figure G-4.



**Figure G-4 Example of how to comply with the requirement to provide the equivalent sediment reduction when only a portion of your earth-disturbances discharge to a buffer of less than 50-feet.**

Steps to help you meet compliance alternative 2 and 3 requirements are provided below.

### **Step 1 - Estimate the Sediment Reduction from the 50-foot Buffer**

In order to design controls that match the sediment removal efficiency of a 50-foot buffer, you first need to know what this efficiency is for your site. The sediment removal efficiencies of natural buffers vary according to a number of site-specific factors, including precipitation, soil type, land cover, slope length, width, steepness, and the types of erosion and sediment controls used to reduce the discharge of sediment prior to the buffer. EPA has simplified this calculation by developing buffer performance tables covering a range of vegetation and soil types for the areas covered by the CGP. See Attachment 1 of this Appendix, Tables G-8 through G-15. Note: buffer performance values in Tables G-8 through G-15 represent the percent of sediment captured through the use of perimeter controls (e.g., silt fences) and 50-foot buffers at disturbed sites of fixed proportions and slopes.<sup>1</sup>

<sup>1</sup> EPA used the following when developing the buffer performance tables:

- The sediment removal efficiencies are based on the U.S. Department of Agriculture's RUSLE2 ("Revised Universal Soil Loss Equation 2") model for slope profiles using a 100-foot long denuded slopes.
- Sediment removal was defined as the annual sediment delivered at the downstream end of the 50-foot natural buffer (tons/yr/acre) divided by the annual yield from denuded area (tons/yr/acre).
- As perimeter controls are also required by the CGP, sediment removal is in part a function of the reduction due to a perimeter control (i.e., silt fence) located between the disturbed portion of the site and the upstream edge of the natural buffer and flow traveling through a 50-foot buffer of undisturbed natural vegetation.
- It was assumed that construction sites have a relatively uniform slope without topographic features that accelerate the concentration for erosive flows.

Using Tables G-8 through G-15 (see Attachment 1 of this Appendix), you can determine the sediment removal efficiency of a 50-foot buffer for your geographic area by matching the vegetative cover type that best describes your buffer area and the type of soils that predominate at your site. For example, if your site is located in Massachusetts (Table G-9), and your buffer vegetation corresponds most closely with that of tall fescue grass, and the soil type at your site is best typified as sand, your site's sediment removal efficiency would be 81 percent.

In this step, you should choose the vegetation type in the tables that most closely matches the vegetation that would exist naturally in the buffer area on your site regardless of the condition of the buffer. However, because you are not required to plant any additional vegetation in the buffer area, in determining what controls are necessary to meet this sediment removal equivalency in Step 2 below, you will be able to take credit for this area as a fully vegetated "natural buffer."

Similarly, if a portion of the buffer area adjacent to the water of the U.S. is owned by another party and is not under your control, you can treat the area of land not under your control as having the equivalent vegetative cover and soil type that predominates on the portion of the property on which your construction activities are occurring.

*For example, if your earth-disturbances occur within 50 feet of a water of the U.S., but the 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10 foot area adjacent to the stream as having the equivalent soil and vegetation type that predominates in the 40 foot area under your control. You would then make the same assumption in Step 2 for purposes of determining the equivalent sediment removal.*

Alternatively, you may do your own calculation of the effectiveness of the 50-foot buffer based upon your site-specific conditions, and may use this number as your sediment removal equivalency standard to meet instead of using Tables G-8 through G-15. This calculation must be documented in your SWPPP.

### **Step 2 - Design Controls That Match the Sediment Removal Efficiency of the 50-foot Buffer**

Once you determine the estimated sediment removal efficiency of a 50-foot buffer for your site in Step 1, you must next select stormwater controls that will provide an equivalent sediment load reduction. These controls can include the installation of a single control, such as a sediment pond or additional perimeter controls, or a combination of stormwater controls. Whichever control(s) you select, you must demonstrate in your SWPPP that the controls will provide at a minimum the same sediment removal capabilities as a 50-foot natural buffer (Step 1). You may take credit for the removal efficiencies of your required perimeter controls in your calculation of equivalency, because these were included in calculating the buffer removal efficiencies in Tables G-8 through G-15. (Note: You are reminded that the controls must be kept in effective operating condition until you complete final stabilization on the disturbed portions of the site discharging to the water of the U.S.)

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- It was assumed that vegetation has been removed from the disturbed portion of the site and a combination of cuts and fills have resulted in a smooth soil surface with limited retention of near-surface root mass.

To represent the influence of soil, EPA analyzed 11 general soil texture classifications in its evaluation of buffer performance. To represent different types of buffer vegetation, EPA evaluated 4 or more common vegetative types for each state/territory covered under the permit. For each vegetation type evaluated, EPA considered only permanent, non-grazed, and non-harvested vegetation, on the assumption that a natural buffer adjacent to the water of the U.S. will typically be undisturbed. EPA also evaluated slope steepness and found that sediment removal efficiencies present in Tables G-8 through G-15 are achievable for slopes that are less than nine percent.

To make the determination that your controls and/or buffer area achieve an equivalent sediment load reduction as a 50-foot buffer, you should use a model or other type of calculation. As mentioned above, there are a variety of models available that can be used to support your calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other models. A couple of examples are provided in Attachment 3 to help illustrate how this determination could be made.

If you retain a buffer of less than 50 feet, you may take credit for the removal that will occur from the reduced buffer and only need to provide additional controls to make up the difference between the removal efficiency of a 50 foot buffer and the removal efficiency of the narrower buffer. For example, if you retain a 30 foot buffer, you can account for the sediment removal provided by the 30 foot buffer retained, and you will only need to design controls to make up for the additional removal provided by the 20 feet of buffer that is not being provided. To do this, you would plug the width of the buffer that is retained into RUSLE or another model, along with other stormwater controls that will together achieve a sediment reduction equivalent to a natural 50-foot buffer.

As described in Step 1 above, you can take credit for the area you retained as a "natural buffer" as being fully vegetated, regardless of the condition of the buffer area.

*For example, if your earth-disturbances occur 30 feet from a water of the U.S., but the 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10-foot area as a natural buffer, regardless of the activities that are taking place in the area. Therefore, you can assume (for purposes of your equivalency calculation) that your site is providing the sediment removal equivalent of a 30-foot buffer, and you will only need to design controls to make up for the additional removal provided by the 20-foot of buffer that is not being provided.*

### **Step 3 - Document How Site-Specific Controls Will Achieve the Sediment Removal Efficiency of the 50-foot Buffer**

In Steps 1 and 2, you determined both the expected sediment removal efficiency of a 50-foot buffer at your site, and you used this number as a performance standard to design controls to be installed at your site, which alone or in combination with any retained natural buffer, achieves the expected sediment removal efficiency of a 50-foot buffer at your site. The final step is to document in your SWPPP the information you relied on to calculate the equivalent sediment reduction as an undisturbed natural buffer.

EPA will consider your documentation to be sufficient if it generally meets the following:

- For Step 1, refer to the table in Attachment 1 that you used to derive your estimated 50-foot buffer sediment removal efficiency performance. Include information about the buffer vegetation and soil type that predominate at your site, which you used to select the sediment load reduction value in Tables G-8 through G-15. Or, if you conducted a site-specific calculation for sediment removal efficiency, provide the specific removal efficiency, and the information you relied on to make your site-specific calculation.
- For Step 2, (1) Specify the model you used to estimate sediment load reductions from your site; and (2) the results of calculations showing how your controls will meet or exceed the sediment removal efficiency from Step 1.

If you choose compliance alternative 3, you must also include in your SWPPP a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size.



### G.3 SMALL RESIDENTIAL LOT COMPLIANCE ALTERNATIVES

EPA has developed two additional compliance alternatives applicable only to “small residential lots” that are unable to provide and maintain a 50 foot buffer.

A **small residential lot** is a lot or grouping of lots being developed for residential purposes that will disturb less than 1 acre of land, but that is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

The following steps describe how a small residential lot operator would achieve compliance with one these 2 alternatives.

#### G.3.1 Small Residential Lot Compliance Alternative Eligibility

In order to be eligible for the small residential lot compliance alternatives, the following conditions must be met:

- a. The lot or grouping of lots meets the definition of “small residential lot”; and
- b. The operator must follow the guidance for providing and maintaining a natural buffer in Part G.2.3 of this Appendix, including:
  - i. Ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site’s erosion and sediment controls, and use velocity dissipation devices if necessary to prevent erosion caused by stormwater within the buffer;
  - ii. Document in the SWPPP the natural buffer width retained on the property, and show the buffer boundary on your site plan; and
  - iii. Delineate, and clearly mark off, with flags, tape, or other similar marking device, all natural buffer areas.

#### G.3.2 Small Residential Lot Compliance Alternatives

You must next choose from one of two small residential lot compliance alternatives and implement the stormwater control practices associated with that alternative.

*Note: The compliance alternatives provided below are not mandatory. Operators of small residential lots can alternatively choose to comply with the any of the options that are available to other sites in Part 2.2.1.a and G.2.1 of this Appendix.*

##### Small Residential Lot Compliance Alternative 1

Alternative 1 is a straightforward tiered-technology approach that specifies the controls that a small residential lot must implement based on the buffer width retained. To meet the requirements of small residential lot compliance alternative 1, you must implement the controls specified in Table G-1 based on the buffer width to be retained. See footnote 3, below, for a description of the controls you must implement.

*For example, if you are an operator of a small residential lot that will be retaining a 35-foot buffer and you choose Small Residential Lot Compliance Alternative 1, you must implement double perimeter controls between earth disturbances and the water of the U.S.*

In addition to implementing the applicable control, you must also document in your SWPPP how you will comply with small residential lot compliance alternative 1.

**Table G-1 Alternative 1 Requirements<sup>2</sup>**

Retain 50-foot Buffer	Retain <50 and >30 foot Buffer	Retain ≤ 30 foot Buffer
No Additional Requirements	Double Perimeter Controls	Double Perimeter Controls and 7-Day Site Stabilization

**Small Residential Lot Compliance Alternative 2**

Alternative 2 specifies the controls that a builder of a small residential lot must implement based on both the buffer width retained and the site's sediment discharge risk. By incorporating the sediment risk, this approach may result in the implementation of controls that are more appropriate for the site's specific conditions.

**Step 1 – Determine Your Site's Sediment Risk Level**

To meet the requirements of Alternative 2, you must first determine your site's sediment discharge "risk level" based on the site's slope, location, and soil type. To help you to determine your site's sediment risk level, EPA developed five different tables for different slope conditions. You should select the table that most closely corresponds to your site's average slope.

*For example, if your site's average slope is 7 percent, you should use Table G-4 to determine your site's sediment risk.*

After you determine which table applies to your site, you must then use the table to determine the "risk level" (e.g., "low", "moderate", or "high") that corresponds to your site's location and predominant soil type.<sup>3</sup>

*For example, based on Table G-3, a site located in New Hampshire with a 4 percent average slope and with predominately sandy clay loam soils would fall into the "moderate" risk level.*

**<sup>2</sup> Description of Additional Controls Applicable to Small Residential Lot Compliance Alternatives 1 and 2:**

- **No Additional Requirements:** If you implement a buffer of 50 feet or greater, then you are not subject to any additional requirements. Note that you are required to install perimeter controls between the disturbed portions of your site and the buffer in accordance with Part 2.2.3.
- **Double Perimeter Control:** In addition to the reduced buffer width retained on your site, you must provide a double row of perimeter controls between the disturbed portion of your site and the water of the U.S. spaced a minimum of 5 feet apart.
- **Double Perimeter Control and 7-Day Site Stabilization:** In addition to the reduced buffer width retained on your site and the perimeter control implemented in accordance with Part 2.2.3, you must provide a double row of perimeter controls between the disturbed portion of your site and the water of the U.S. spaced a minimum of 5 feet apart, and you are required to complete the stabilization activities specified in Parts 2.2.14 within 7 calendar days of the temporary or permanent cessation of earth-disturbing activities.

<sup>3</sup> One source for determining your site's predominant soil type is the USDA's Web Soil Survey located at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

**Table G-2 Risk Levels for Sites with Average Slopes of ≤ 3 Percent**

Soil Type Location					
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	Moderate	Moderate	Moderate	Moderate	High
Puerto Rico	Moderate	Moderate	Moderate	Moderate	High
Virgin Islands	Low	Moderate	Low	Moderate	Moderate
American Samoa	Moderate	Moderate	Moderate	Moderate	High
Massachusetts and New Hampshire	Low	Moderate	Low	Low	Moderate
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Low	Low	Low	Low
Washington D.C.	Low	Moderate	Low	Low	Moderate

**Table G-3 Risk Levels for Sites with Average Slopes of > 3 Percent and ≤ 6 Percent**

Soil Type Location					
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	Moderate	Moderate	Moderate	Moderate	High
Puerto Rico	Moderate	Moderate	Moderate	Moderate	High
Virgin Islands	Moderate	Moderate	Moderate	Moderate	High
American Samoa	High	High	Moderate	High	High
Massachusetts and New Hampshire	Moderate	Moderate	Low	Moderate	High
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Low	Low	Low	Moderate
Washington D.C.	Moderate	Moderate	Moderate	Moderate	High

**Table G-4 Risk Levels for Sites with Average Slopes of > 6 Percent and ≤ 9 Percent**

Soil Type Location	Soil Type				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	Moderate	High	Moderate	High	High
Puerto Rico	Moderate	High	Moderate	Moderate	High
Virgin Islands	Moderate	Moderate	Moderate	Moderate	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	Moderate	Moderate	Moderate	Moderate	High
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Low	Low	Low	Moderate
Washington D.C.	Moderate	Moderate	Moderate	Moderate	High

**Table G-5 Risk Levels for Sites with Average Slopes of > 9 Percent and ≤ 15 Percent**

Soil Type Location	Soil Type				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	High	High	High	High	High
Puerto Rico	High	High	High	High	High
Virgin Islands	Moderate	High	Moderate	High	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	Moderate	Moderate	Moderate	Moderate	High
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Moderate	Low	Moderate	Moderate
Washington D.C.	Moderate	High	Moderate	Moderate	High

**Table G-6 Risk Levels for Sites with Average Slopes of > 15 Percent**

Soil Type Location	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	High	High	High	High	High
Puerto Rico	High	High	High	High	High
Virgin Islands	High	High	High	High	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	High	High	Moderate	High	High
Idaho	Low	Low	Low	Low	Moderate
New Mexico	Moderate	Moderate	Moderate	Moderate	High
Washington D.C.	High	High	Moderate	High	High

**Step 2 – Determine Which Additional Controls Apply**

Once you determine your site's "risk level", you must next determine the additional controls you need to implement on your site, based on the width of buffer you plan to retain. Table G-7 specifies the requirements that apply based on the "risk level" and buffer width retained. See footnote 3, above, for a description of the additional controls that are required.

*For example, if you are the operator of a small residential lot that falls into the "moderate" risk level, and you decide to retain a 20-foot buffer, using Table G-7 you would determine that you need to implement double perimeter controls to achieve compliance with small residential lot compliance alternative 2.*

You must also document in your SWPPP your compliance with small residential lot compliance alternative 2.

**Table G-7. Alternative 2 Requirements<sup>2</sup>**

Risk Level Based on Estimated Soil Erosion	Retain ≥ 50' Buffer	Retain <50' and >30' Buffer	Retain ≤30' and >10' Buffer	Retain ≤ 10' Buffer
Low Risk	No Additional Requirements	No Additional Requirements	Double Perimeter Control	Double Perimeter Control
Moderate Risk	No Additional Requirements	Double Perimeter Control	Double Perimeter Control	Double Perimeter Control and 7-Day Site Stabilization
High Risk	No Additional Requirements	Double Perimeter Control	Double Perimeter Control and 7-Day Site Stabilization	Double Perimeter Control and 7-Day Site Stabilization

**ATTACHMENT 1****Sediment Removal Efficiency Tables<sup>4</sup>**

EPA recognizes that very high removal efficiencies, even where theoretically achievable by a 50-foot buffer, may be very difficult to achieve in practice using alternative controls. Therefore in the tables below, EPA has limited the removal efficiencies to a maximum of 90%. Efficiencies that were calculated at greater than 90% are shown as 90%, and this is the minimum percent removal that must be achieved by alternative controls.

**Table G-8 Estimated 50-foot Buffer Performance in Idaho\***

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Tall Fescue Grass	42	52	44	48	85
Medium-density Weeds	28	30	28	26	60
Low-density Warm-season Native Bunchgrass (i.e., Grama Grass)	25	26	24	24	55
Northern Mixed Prairie Grass	28	30	28	26	50
Northern Range Cold Desert Shrubs	28	28	24	26	50

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-9 Estimated 50-foot Buffer Performance in Massachusetts and New Hampshire\***

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Warm-season Grass (i.e., Switchgrass, Lemongrass)	79	90	90	90	90
Cool-season Dense Grass (Kentucky Bluegrass, Smooth Bromegrass, Timothy)	78	90	90	90	90
Tall Fescue Grass	76	90	81	89	90
Medium-density Weeds	66	76	60	72	66

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

<sup>4</sup> The buffer performances were calculated based on a denuded slope upgradient of a 50-foot buffer and a perimeter controls, as perimeter controls are a standard requirement (see Part 2.2.3).

**Table G-10 Estimated 50-foot Buffer Performance in New Mexico\***

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Tall Fescue grass	71	85	80	86	90
Medium-density Weeds	56	73	55	66	78
Low-density Warm-season Native Bunchgrass (i.e., Grama Grass)	53	70	51	62	67
Southern Mixed Prairie Grass	53	71	52	63	50
Southern Range Cold Desert Shrubs	56	73	55	65	53

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-11 Estimated 50-foot Buffer Performance in Washington, DC\***

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Warm-season Grass (i.e., Switchgrass, Lemongrass)	82	90	90	90	90
Cool-season Dense Grass (Kentucky Bluegrass, Smooth Bromegrass, Timothy)	81	90	90	90	90
Tall Fescue Grass	79	90	83	89	90
Medium-density Weeds	71	79	66	75	74

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-12 Estimated 50-foot Buffer Performance in American Samoa\***

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	82	90	90	90	83
Warm-season Grass (i.e., Switchgrass, Lemongrass)	82	90	90	90	85
Dense Grass	82	90	90	90	83
Tall Fescue Grass	82	89	82	89	79
Medium-density Weeds	70	73	62	75	59

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-13 Estimated 50-foot Buffer Performance in CNMI and Guam\***

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	80	90	90	90	89
Warm-season Grass (i.e., Switchgrass, Lemongrass)	80	90	90	90	90
Dense Grass	79	90	90	90	89
Tall Fescue Grass	76	90	80	88	87
Medium-density Weeds	63	73	53	68	61

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-14 Estimated 50-foot Buffer Performance in Puerto Rico\***

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	83	90	90	90	90
Warm-season Grass (i.e., Switchgrass, Lemongrass)	83	90	90	90	90
Dense Grass	83	90	90	90	90
Tall Fescue Grass	82	90	84	90	89
Medium-density Weeds	72	78	65	76	64

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation

**Table G-15 Estimated 50-foot Buffer Performance in Virgin Islands\***

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	85	90	90	90	90
Warm-season Grass (i.e., Switchgrass, Lemongrass)	86	90	90	90	90
Dense Grass	85	90	90	90	90
Tall Fescue Grass	85	90	88	90	89
Medium-density Weeds	75	77	71	78	63

\* Applicable for sites with less than nine percent slope

\*\* Characterization focuses on the under-story vegetation



**ATTACHMENT 2**Using the Sediment Removal Efficiency Tables – Questions and Answers

- *What if my specific buffer vegetation is not represented in Tables G-8 through G-15?* Tables G - 8 through G - 15 provide a wide range of factors affecting buffer performance; however, there are likely instances where the specific buffer vegetation type on your site is not listed. If you do not see a description of the type of vegetation present at your site, you should choose the vegetation type that most closely matches the vegetation type on your site. You can contact your local Cooperative Extension Service Office (<http://nifa.usda.gov/partners-and-extension-map>) for assistance in determining the vegetation type in Tables G-8 through G-15 that most closely matches your site-specific vegetation.
- *What if there is high variability in local soils?* EPA recognizes that there may be a number of different soil type(s) on any given construction site. General soil information can be obtained from USDA soil survey reports (<http://websoilsurvey.nrcs.usda.gov>) or from individual site assessments performed by a certified soil expert. Tables G-8 through G-15 present eleven generic soil texture classes, grouping individual textures where EPA has determined that performance is similar. If your site contains different soil texture classes, you should use the soil type that best approximates the predominant soil type at your site.
- *What if my site slope is greater than 9 percent after final grade is reached?* As indicated in the buffer performance tables, the estimated sediment removal efficiencies are associated with disturbed slopes of up to 9 percent grade. Where your graded site has an average slope of greater than 9 percent, you should calculate a site-specific buffer performance.
- *How do I calculate my own estimates for sediment reduction at my specific site?* If you determine that it is necessary to calculate your own sediment removal efficiency using site-specific conditions (e.g., slopes at your site are greater than 9 percent), you can use a range of available models that are available to facilitate this calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other equivalent models.
- *What is my estimated buffer performance if my site location is not represented by Tables G-8 through G-15?* If your site is located in an area not represented by Tables G-8 through G-15, you should use the table that most closely approximates conditions at your site. You may instead choose to conduct a site-specific calculation of the buffer performance.
- *What if only a portion of my site drains to the buffer area?* If only a portion of your site drains to a water of the U.S., where that water is within 50 feet of your earth disturbances, you are only required to meet the equivalency requirement for the stormwater flows corresponding to those portions of the site. See Example 2 below for an example of how this is expected to work.

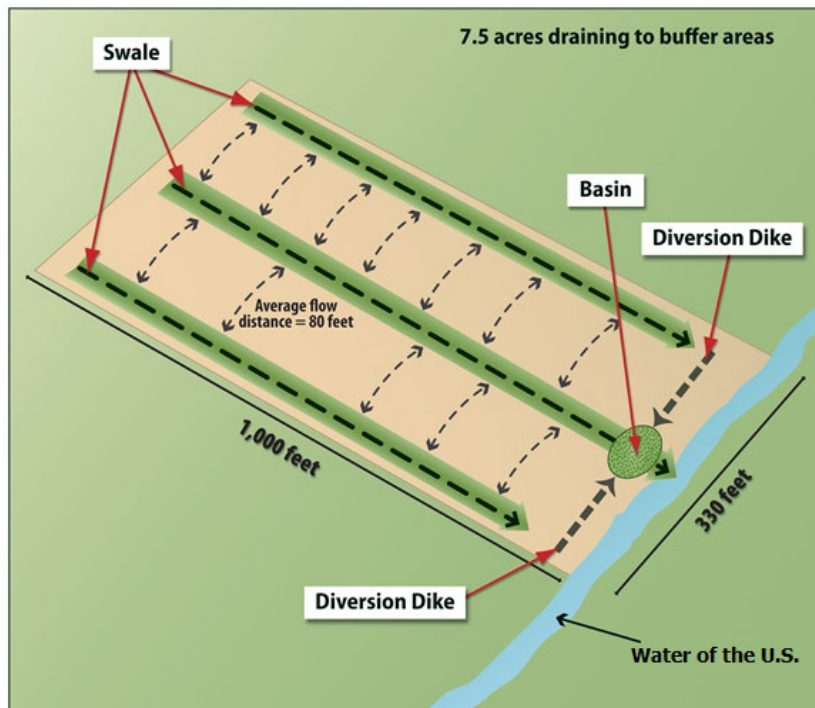
### ATTACHMENT 3

#### Examples of How to Use the Sediment Removal Efficiency Tables

##### Example 1. Comparatively Wet Location (7.5 acre site located in Massachusetts)

The operator of a 7.5-acre construction site in Massachusetts has determined that it is infeasible to establish a buffer of any size on the site, and is now required to select and install controls that will achieve an equivalent sediment load reduction as that estimated in G-9 for their site conditions. The first step is to identify what percentage of eroded sediment is estimated to be retained from a 50-foot buffer. For this example, it is assumed that the site has a relatively uniform gentle slope (3 percent), so Table G-9 can be used to estimate the 50-foot buffer sediment load reduction. If the site's buffer vegetation is best typified by cool-season dense grass and the underlying soil is of a type best described as loamy sand, the 50-foot buffer is projected to capture 90 percent of eroded sediment from the construction site.

The second step is to determine what sediment controls can be selected and installed in combination with the perimeter controls already required to be implemented at the site (see Part 2.2.3), which will achieve the 90 percent sediment removal efficiency from Table G-9. For this example, using the RUSLE2 profile model, it was determined that installing a pair of shallow-sloped diversion ditches to convey runoff to a well-designed and maintained sediment basin provides 99 percent sediment removal. Because the estimated sediment reduction is greater than the required 90 percent that a 50-foot buffer provides, the operator will have met the buffer requirements. See Figure G-5. The operator could also choose a different set of controls, as long as they achieve at least a 90 percent sediment removal efficiency.



**Figure G-5 Example 1 – Equivalent Sediment Load Reductions at a 7.5 ac Site in MA.**

##### Example 2. Arid Location With Pre-existing Disturbances in the Natural Buffer (6.5 acre site located in New Mexico)

An operator of a site in New Mexico determines that it is not feasible to provide a 50-foot buffer, but a 28-foot buffer can be provided. Because the operator will provide a buffer that is less than

50 feet, the operator must determine which controls, in combination with the 28-foot buffer, achieve a sediment load reduction equivalent to the 50-foot buffer. In this example, the project will disturb 6.5 acres of land, but only 1.5 acres of the total disturbed area drains to the buffer area. Within the 28-foot buffer area is a preexisting concrete walkway. Similar to Example 1, the equivalence analysis starts with Step 1 in Part G.2.4 of this Appendix with a review of the New Mexico buffer performance (Table G-10). The operator determines that the predominate vegetation type in the buffer area is prairie grass, the soil type is similar to silt, and the site is of a uniform, shallow slope (e.g., 3 percent grade). Although the operator will take credit for the disturbance caused by the concrete walkway as a natural buffer in Step 2, here the operator can treat the entire buffer area as being naturally vegetated with prairie grass. Based on this information, the operator refers to Table G-10 to estimate that the 50-foot buffer would retain 50 percent of eroded soil.

The second step is to determine, based on the 50 percent sediment removal efficiency found in Table G-10, what sediment controls, in combination with the 28-foot buffer area, can be implemented to reduce sediment loads by 50 percent or more. The operator does not have to account the reduction in buffer function caused by the preexisting walkway, and can take credit for the entire 28-foot buffer being fully vegetated in the analysis. For this example, using the RUSLE2 profile model, the operator determined that installing a fiber roll barrier between the silt fence (already required by Part 2.2.3) and the 28-foot buffer will achieve an estimated 84 percent sediment removal efficiency. See Figure G-6. Note that this operator is subject to the requirement in Part G.2.3 of this Appendix to ensure that discharges through the silt fence, fiber roll barrier, and 28-foot buffer do not cause erosion within the buffer. The estimated sediment reduction is greater than the required 50 percent; therefore the operator will have met the buffer alternative requirement.

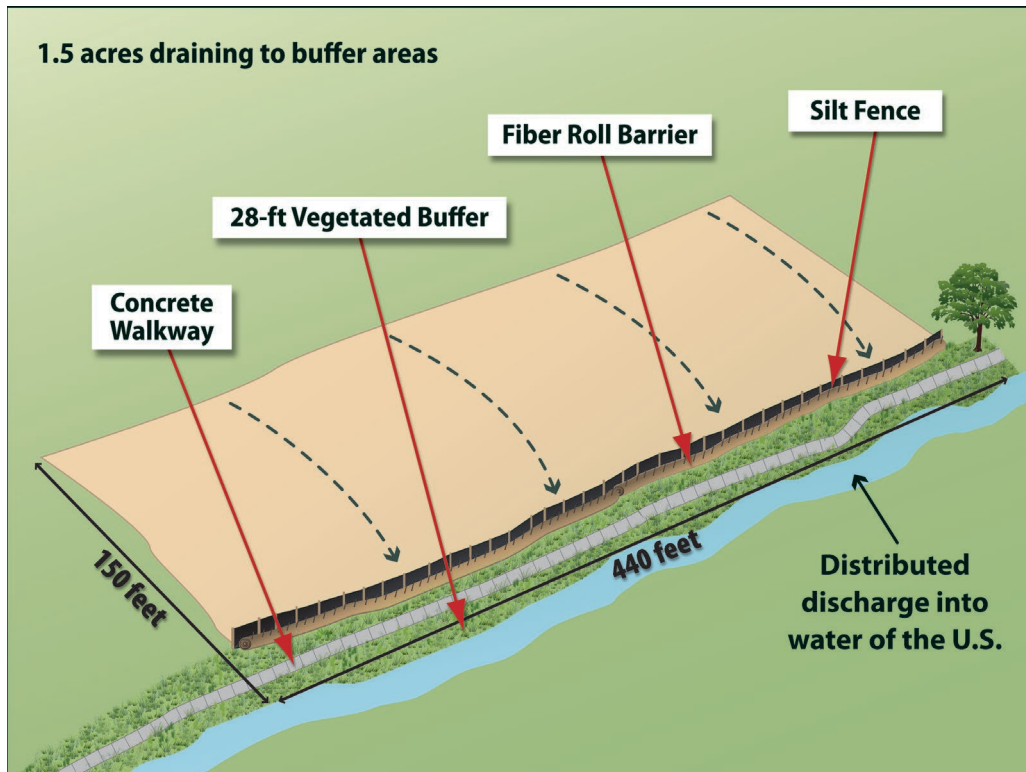


Figure G-6 Example 2 – Equivalent Sediment Load Reductions at a 6.5 ac Site in NM.

## Appendix H – 2-Year, 24-Hour Storm Frequencies

Part 2.2.12 of the permit indicates that if you install a sediment basin, one of the design requirements is to provide storage for either (1) the calculated volume of runoff from a 2-year, 24-hour storm, or (2) 3,600 cubic feet per acre drained. This appendix is intended to provide a guide to permittees to determine the volume of precipitation associated with their local 2-year, 24-hour storm event.

The permittee should start out by determining their local 2-year, 24-hour storm volume. The rainfall frequency atlases, technical papers, and the Precipitation Frequency Data Server (PFDS) developed by the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) serve as national standards for rainfall intensity at specified frequencies and durations in the United States. Table H-1 identifies methods for determining precipitation frequency based on permit area. EPA notes that permittees may also use alternative peer-reviewed data sources not listed in Table H - 1 to determine the 2-year, 24-hour storm for their site.

**Table H -1 – Method to Determine Precipitation Frequency Based on Permit Area**

PERMIT AREA	METHOD TO DETERMINE PRECIPITATION FREQUENCY
District of Columbia	PFDS; NOAA Atlas 14, Vol. 2
Idaho	NOAA Atlas 2, Vol. 5; Technical Paper 40
Massachusetts	Technical Paper 40
New Hampshire	Technical Paper 40
New Mexico	PFDS; Technical Paper 40
Selected Pacific Islands	PFDS; Technical Paper 40
Puerto Rico and the U.S Virgin Islands	PFDS; Technical Paper 40
Other	PFDS; Technical Paper 40; NOAA Atlas 2 or 14

### How to Determine Your Local 2-year, 24-hour Storm Size

Projects located in the **District of Columbia, Massachusetts, New Hampshire, New Mexico, Puerto Rico, U.S. Virgin Islands, or Pacific Islands** can use the PFDS at <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html> or the appropriate NOAA's Atlas 14 Volume at <http://www.nws.noaa.gov/oh/hdsc/currentpf.htm> to determine their precipitation frequency.

The PFDS is an easy to use, point-and-click interface to official U.S. precipitation frequency estimates and intensities. The opening PFDS screen is a clickable map of the United States. Upon clicking on a state, a state-specific interface appears. From this page the user selects the following:

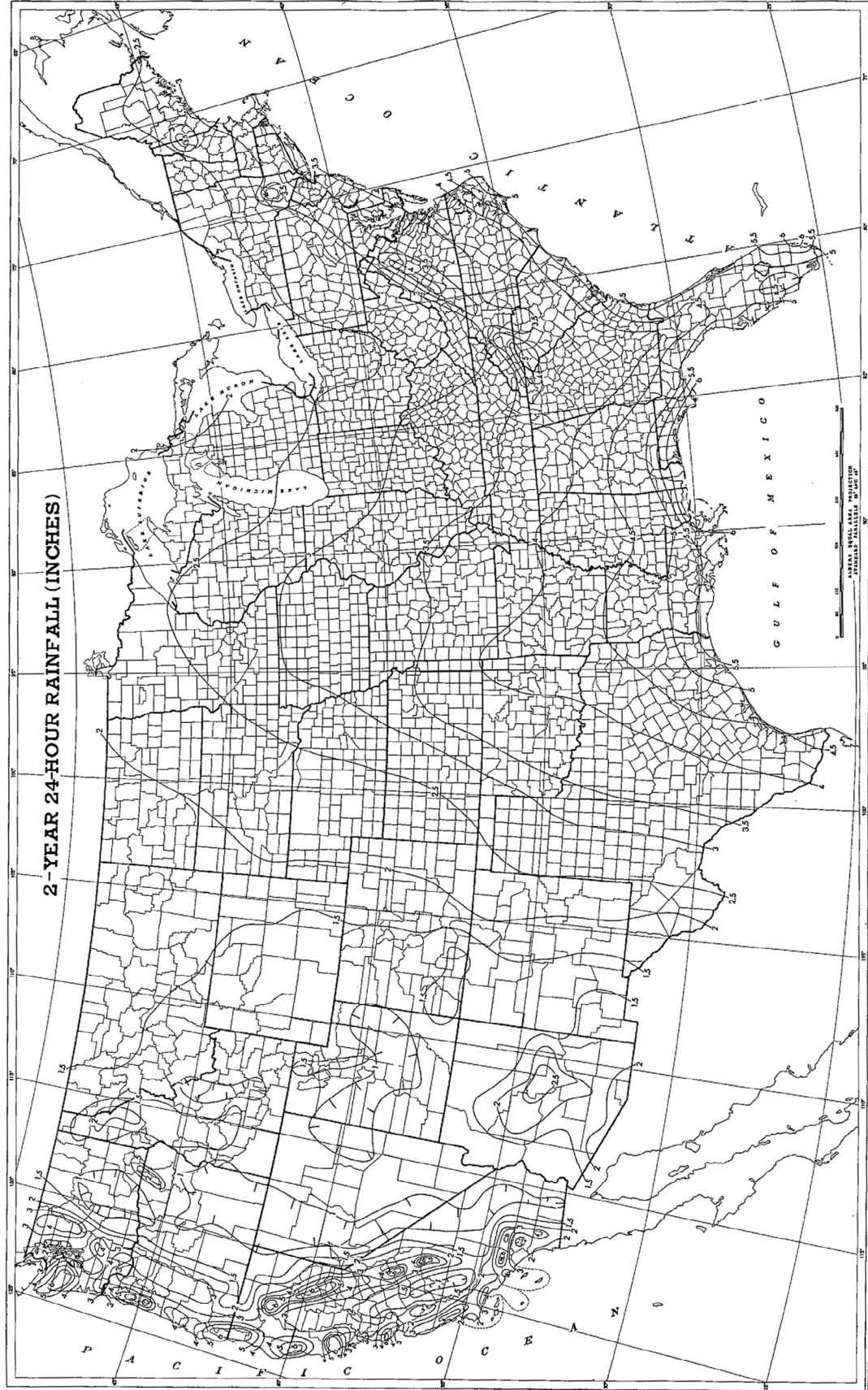
- A location: Either via clicking on the map or manually entering a longitude/latitude coordinate;
- Data type: precipitation depth or precipitation intensity
- Units: english or metric; and
- Time series type: partial duration or annual maximum.

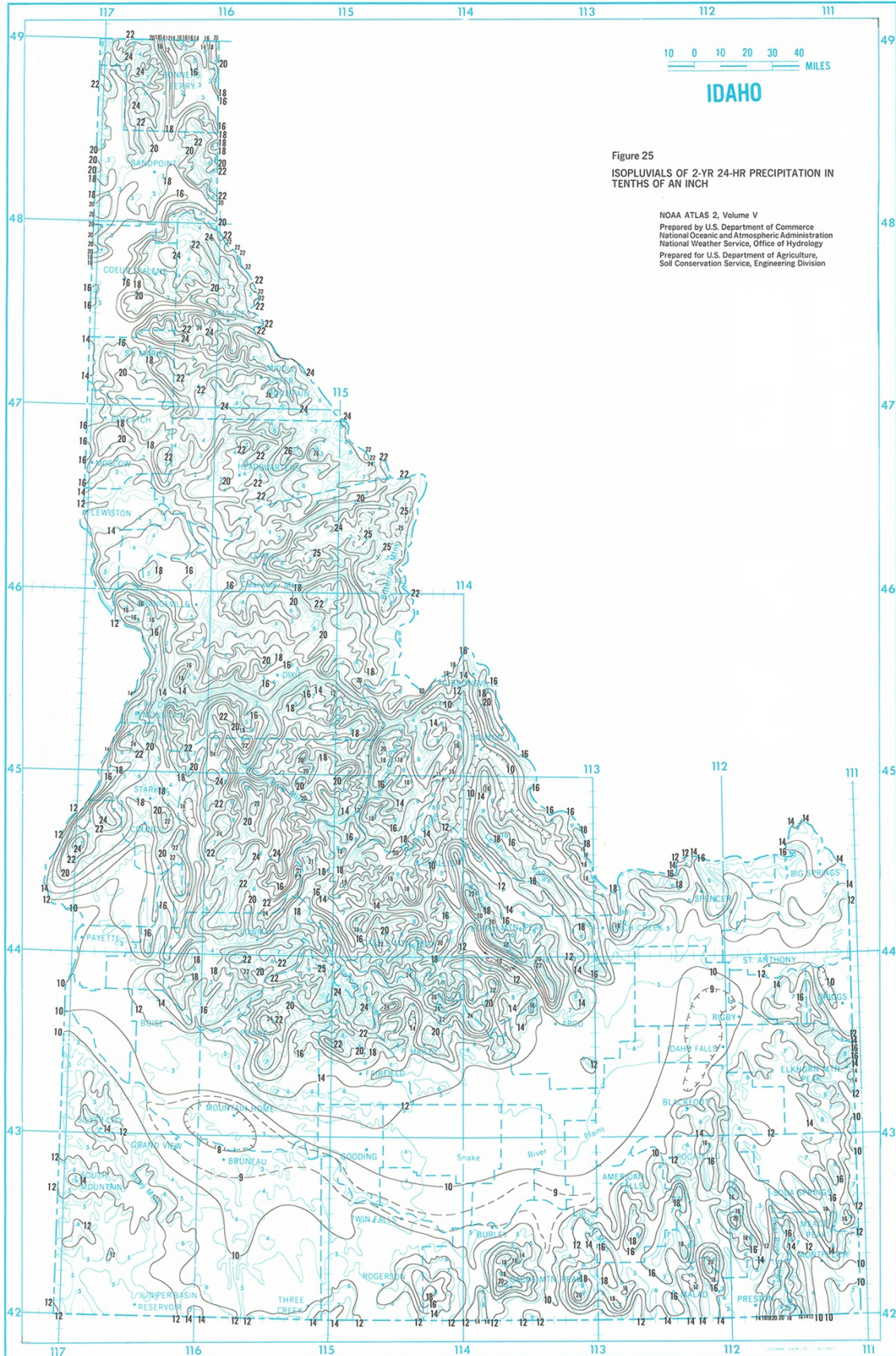
Additionally, PFDS also serves as a tool for providing references and other information for other current precipitation frequency standards that are not yet updated.

Projects located in **Idaho** can use the NOAA Atlas 2, Vol. 5 to determine their precipitation frequency. NOTE: Precipitation Frequencies on the NOAA Atlas 2, Vol. 5 are in tenths of an inch and will have to be converted to inches to determine precipitation frequency. NOAA Atlas 2, Vol. 5 can be accessed at [http://www.nws.noaa.gov/oh/hdsc/PF\\_documents/Atlas2\\_Volume5.pdf](http://www.nws.noaa.gov/oh/hdsc/PF_documents/Atlas2_Volume5.pdf). (See also attached map of NOAA Atlas 2, Vol. 5)

Projects located in areas not covered by the PFDS or NOAA Atlases will need to use TP-40 to identify the precipitation frequency. TP-40 provides a map of the continental U.S. for the 2-year, 24-hour rainfall. TP40 can be accessed at [http://www.nws.noaa.gov/oh/hdsc/PF\\_documents/TechnicalPaper\\_No40.pdf](http://www.nws.noaa.gov/oh/hdsc/PF_documents/TechnicalPaper_No40.pdf). (See also attached map of TP-40)

Sheet 64





## Appendix I - Standard Permit Conditions

Standard permit conditions in Appendix I are consistent with the general permit provisions required under 40 CFR 122.41.

### I.1 Duty To Comply.

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

**I.1.1** You must comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards, even if the permit has not yet been modified to incorporate the requirement.

**I.1.2** Penalties for Violations of Permit Conditions: The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (61 FR 252, December 31, 1996, pp. 69359-69366, as corrected in 62 FR 54, March 20, 1997, pp.13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every 4 years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties following were adjusted for inflation starting in 1996.

#### I.1.2.1 *Criminal Penalties.*

- a. *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than \$2,500 nor more than \$25,000 per day of violation, or imprisonment of not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation or by imprisonment of not more than two years, or both.
- b. *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- c. *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury shall upon conviction be subject to a fine of not more than \$250,000 or by imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision be subject to a fine of not



more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- d. *False Statement.* The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

I.1.2.2 *Civil Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed the maximum amount authorized by Section 309(d) of the Act, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

I.1.2.3 *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows

- a. *Class I Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note), as amended (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.
- b. *Class II Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note), as amended, (28 U.S.C. § 2461 note), and codified at 40 CFR § 19.4.

## **I.2 Duty to Reapply.**

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain authorization as required by the new permit once EPA issues it.

## **I.3 Need to Halt or Reduce Activity Not a Defense.**

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## **I.4 Duty to Mitigate.**

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**I.5 Proper Operation and Maintenance.**

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by you to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by you only when the operation is necessary to achieve compliance with the conditions of this permit.

**I.6 Permit Actions.**

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**I.7 Property Rights.**

This permit does not convey any property rights of any sort, or any exclusive privileges.

**I.8 Duty to Provide Information.**

You must furnish to EPA or an authorized representative (including an authorized contractor acting as a representative of EPA), within a reasonable time, any information that EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to EPA or an authorized representative upon request, copies of records required to be kept by this permit.

**I.9 Inspection and Entry.**

You must allow EPA or an authorized representative (including an authorized contractor acting as a representative of EPA), upon presentation of credentials and other documents as may be required by law, to:

- I.9.1** Enter upon your premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- I.9.2** Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- I.9.3** Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- I.9.4** Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**I.10 Monitoring and Records.**

- I.10.1** Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.
- I.10.2** You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date the permit expires or the date the permittee's authorization is terminated. This period may be extended by request of EPA at any time.

**I.10.3** Records of monitoring information must include:

- I.10.3.1 The date, exact place, and time of sampling or measurements;
- I.10.3.2 The individual(s) who performed the sampling or measurements;
- I.10.3.3 The date(s) analyses were performed
- I.10.3.4 The individual(s) who performed the analyses;
- I.10.3.5 The analytical techniques or methods used; and
- I.10.3.6 The results of such analyses.

**I.10.4** Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.

**I.10.5** The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**I.11 Signatory Requirements.**

**I.11.1** All applications, including NOIs, must be signed as follows:

I.11.1.1 For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

I.11.1.2 For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

I.11.1.3 For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

**I.11.2** Your SWPPP, including changes to your SWPPP, inspection reports, and any other compliance documentation required under this permit, must be signed by a person described in Appendix I, Subsection I.11.1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

I.11.2.1 The authorization is made in writing by a person described in Appendix I, Subsection I.11.1;

- I.11.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- I.11.2.3 The signed and dated written authorization is included in the SWPPP. A copy must be submitted to EPA, if requested.
- I.11.3** Changes to Authorization. If an authorization under this permit is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new NOI must be submitted to EPA. See Table 1 in Part 1.4.2 of the permit. However, if the only change that is occurring is a change in contact information or a change in the facility's address, the operator need only make a modification to the existing NOI submitted for authorization.
- I.11.4** Any person signing documents in accordance with Appendix I, Subsections I.11.1 or I.11.2 above must include the following certification:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information contained therein. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- I.11.5** For persons signing NOIs electronically, in addition to meeting other applicable requirements in Appendix I, Subsection I.11, such signatures must meet the same signature, authentication, and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports (including robust second-factor authentication).
- I.11.6** The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- I.12 Reporting Requirements.**
- I.12.1** Planned changes. You must give notice to EPA as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
- I.12.1.1 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
- I.12.1.2 The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

- I.12.2** Anticipated noncompliance. You must give advance notice to EPA of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- I.12.3** Transfers. This permit is not transferable to any person except after notice to EPA. Where a facility wants to change the name of the permittee, the original permittee (the first owner or operators) must submit a Notice of Termination pursuant to Part 8. The new owner or operator must submit a Notice of Intent in accordance with Part 1.7 and Table 1. See also requirements in Appendix I, Subsections I.11.1 and I.11.2.
- I.12.4** Monitoring reports. Monitoring results must be reported at the intervals specified elsewhere in this permit.
- I.12.4.1 Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by EPA for reporting results of monitoring of sludge use or disposal practices.
- I.12.4.2 If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by EPA.
- I.12.5** Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.
- I.12.6** Twenty-four hour reporting. In addition to reports required elsewhere in this permit:
- I.12.6.1 You must report any noncompliance which may endanger health or the environment directly to the EPA Regional Office (see contacts at <https://www2.epa.gov/national-pollutant-discharge-elimination-system-npdes/contact-us-stormwater#regional>). Any information must be provided orally within 24 hours from the time you become aware of the circumstances. A written submission must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- I.12.6.2 The following shall be included as information which must be reported within 24 hours under this paragraph.
- a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(m)(3)(ii))
  - b. Any upset which exceeds any effluent limitation in the permit
  - c. Violation of a maximum daily discharge limit for any numeric effluent limitation. (See 40 CFR 122.44(g).)
- I.12.6.3 EPA may waive the written report on a case-by-case basis for reports under Appendix I, Subsection I.12.6.2 if the oral report has been received within 24 hours.
- I.12.7** Other noncompliance. You must report all instances of noncompliance not reported under Appendix I, Subsections I.12.4, I.12.5, and I.12.6, at the time monitoring reports are submitted. The reports must contain the information listed in Appendix I, Subsection I.12.6.
- I.12.8** Other information. Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application

or in any report to the Permitting Authority, you must promptly submit such facts or information.

**I.13 Bypass.**

**I.13.1** Definitions.

I.13.1.1 Bypass means the intentional diversion of waste streams from any portion of a treatment facility See 40 CFR 122.41 (m)(1)(i).

I.13.1.2 Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR 122.41 (m)(1)(ii).

**I.13.2** Bypass not exceeding limitations. You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Appendix I, Subsections I.13.3 and I.13.4. See 40 CFR 122.41 (m)(2).

**I.13.3** Notice.

I.13.3.1 Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass. See 40 CFR 122.41 (m)(3)(i).

I.13.3.2 Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Appendix I, Subsection I.12.6 (24-hour notice). See 40 CFR 122.41 (m)(3)(ii).

**I.13.4** Prohibition of bypass. See 40 CFR 122.41 (m)(4).

I.13.4.1 Bypass is prohibited, and EPA may take enforcement action against you for bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- c. You submitted notices as required under Appendix I, Subsection I.13.3.

I.13.4.2 EPA may approve an anticipated bypass, after considering its adverse effects, if EPA determines that it will meet the three conditions listed above in Appendix I, Subsection I.13.4.1.

**I.14 Upset.**

**I.14.1** Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. See 40 CFR 122.41 (n)(1).

**I.14.2** Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Appendix I, Subsection I.14.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. See 40 CFR 122.41(n)(2).

**I.14.3** Conditions necessary for a demonstration of upset. See 40 CFR 122.41(n)(3). A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

I.14.3.1 An upset occurred and that you can identify the cause(s) of the upset;

I.14.3.2 The permitted facility was at the time being properly operated; and

I.14.3.3 You submitted notice of the upset as required in Appendix I, Subsection I.12.6.2.b (24 hour notice).

I.14.3.4 You complied with any remedial measures required under Appendix I, Subsection I.4.

**I.14.4** Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, have the burden of proof. See 40 CFR 122.41(n)(4).

### **I.15 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.

### **I.16 Reopener Clause.**

**I.16.1** 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.

**I.16.2** Water quality protection. If there is evidence indicating that the stormwater 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, or the permit may be modified to include different limitations and/or requirements.

**I.16.3** 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.

### **I.17 Severability.**

Invalidation of a portion of this permit does not necessarily render the whole permit invalid. EPA's intent is that the permit is to remain in effect to the extent possible; in the event that any part of this permit is invalidated, EPA will advise the regulated community as to the effect of such invalidation.

**Appendix J - Notice of Intent (NOI) Form and Instructions**

Part 1.4.1 requires you to use the NPDES eReporting Tool, or "NeT" system, to prepare and submit your NOI electronically. However, if the EPA Regional Office grants you a waiver to use a paper NOI form, and you elect to use it, you must complete and submit the following form.



Submission of this Notice of Intent (NOI) constitutes notice that the operator identified in Section III of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section II of this form. Submission of this NOI also constitutes notice that the operator identified in Section III of this form meets the eligibility requirements of Part 1.1 CGP for the project identified in Section IV of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in Part 8 of the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage. Refer to the instructions at the end of this form.

**I. Approval to Use Paper NOI Form**

Have you been granted a waiver from electronic reporting from the Regional Office \*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

- Waiver granted:  The owner/operator's headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.
- The owner/operator has issues regarding available computer access or computer capability.

Name of EPA staff person that granted the waiver:

Date approval obtained:  /  /

**\* Note: You are required to obtain approval from the applicable Regional Office prior to using this paper NOI form. If you have not obtained a waiver, you must file this form electronically using the NPDES eReporting Tool (NeT).**

**II. Permit Information** NPDES ID (EPA Use Only):

Master Permit Number:  (see Appendix B of the CGP for the list of eligible permit numbers)

**III. Operator Information**

**Operator Information**

Operator Name:

Are you requesting coverage under this NOI as a "federal operator" as defined in Appendix A?  YES  NO

Mailing Address:

Street:

City:  State:  ZIP Code:  -

County or Similar Government Division:

Phone:  -  -  Ext.

E-mail:

Operator Point of Contact Information:

First Name, Middle Initial, Last Name:

Title:

**NOI Preparer (Complete if NOI was prepared by someone other than the certifier):**

First Name, Middle Initial, Last Name:

Organization:

Phone:  -  -  Ext.

E-mail:



Receiving Waters Information: (Attach a separate list if necessary)

Point of Discharge ID	For each point of discharge, provide the following receiving water information:		
	Provide the name of the first water of the U.S. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to:	If the receiving water is impaired (on the CWA 303(d) list), list the pollutants that are causing the impairment:	If a TMDL been completed for this receiving waterbody, providing the following information:
			<p>TMDL Name and ID:</p>     <p>Pollutant(s) for which there is a TMDL:</p>
			<p>TMDL Name and ID:</p>     <p>Pollutant(s) for which there is a TMDL:</p>
			<p>TMDL Name and ID:</p>     <p>Pollutant(s) for which there is a TMDL:</p>
			<p>TMDL Name and ID:</p>     <p>Pollutant(s) for which there is a TMDL:</p>

			<b>TMDL Name and ID:</b>  <b>Pollutant(s) for which there is a TMDL:</b>
			<b>TMDL Name and ID:</b>  <b>Pollutant(s) for which there is a TMDL:</b>

Are any of the waters of the U.S. to which you discharge designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water) or as a Tier 3 water (Outstanding National Resource Water)? (See Appendix F).

YES  NO

If yes, name(s) of receiving water(s) and its designation (Tier 2, Tier 2.5 or Tier 3):

**VI. Chemical Treatment Information**

Will you use polymers, flocculants, or other treatment chemicals at your construction site?  YES  NO

If yes, will you use cationic treatment chemicals at your construction site\*?  YES  NO

If yes, have you been authorized to use cationic treatment chemicals by your applicable EPA Regional Office in advance of filing your NOI\*?  YES  NO

If you have been authorized to use cationic treatment chemicals by your applicable EPA Regional Office, attach a copy of your authorization letter and include documentation of the appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.

Please indicate the treatment chemicals that you will use:

\* Note: You are ineligible for coverage under this permit unless you notify your applicable EPA Regional Office in advance and the EPA office authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.

**VII. Stormwater Pollution Prevention Plan (SWPPP) Information**

Has the SWPPP been prepared in advance of filing this NOI, as required?  YES  NO

**SWPPP Contact Information:**

First Name, Middle Initial Last Name:

Professional Title:

Phone:  -  -  Ext.

E-mail:



- F** Issuance of section 10 permit. Potential take is authorized through the issuance of a permit under section 10 of the ESA by the USFWS and/or NMFS, and this authorization addresses the effects of the site's discharges and discharge-related activities on ESA-listed species and designated critical habitat. You must include copies of the correspondence between yourself and the participating agencies in your SWPPP and your NOI. **Basis statement content: A basis statement supporting the selection of this criterion should identify whether USFWS or NMFS or both agencies provided a section 10 permit, the field office/regional office(s) providing permit(s), any tracking numbers of identifiers associated with that consultation (e.g., PaC number, PCTS number), and the date the permit was granted.**

Provide a brief summary of the basis for criterion selection listed above [the necessary content for a supportive basis statement is provided under the criterion you selected.].

**IX. Historic Preservation**

Are you installing any stormwater controls as described in Appendix E that require subsurface earth disturbance? (Appendix E, Step 1)  YES  NO

If yes, have prior surveys or evaluations conducted on the site have already determined historic properties do not exist, or that prior disturbances have precluded the existence of historic properties? (Appendix E, Step 2)  YES  NO

If no, have you determined that your installation of subsurface earth-disturbing stormwater controls will have no effect on historic properties? (Appendix E, Step 3)  YES  NO

If no, did the SHPO, THPO, or other tribal representative (whichever applies) respond to you within the 15 calendar days to indicate whether the subsurface earth disturbances caused by the installation of stormwater controls affect historic properties? (Appendix E, Step 4)  YES  NO

If yes, describe the nature of their response:

- Written indication that no historic properties will be affected by the installation of stormwater controls.
- Written indication that adverse effects to historic properties from the installation of stormwater controls can be mitigated by agreed upon actions.
- No agreement has been reached regarding measures to mitigate effects to historic properties from the installation of stormwater controls.
- Other:

**X. Certification Information**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

First Name, Middle Initial, Last Name:

Title:

Signature: \_\_\_\_\_

Date:  /  /

Email:

**Notice of Intent for the 2017 NPDES Construction General Permit**

NPDES Form Date (2/17)

This Form Replaces Form 3510-9 (02/12)

Form Approved OMB No. 2040-0004

**Who Must File an NOI Form**

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et. seq.; the Act), federal law prohibits stormwater discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) permit. Operators of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must obtain coverage under an NPDES general permit. For coverage under the 2017 CGP, each person, firm, public organization, or any other entity that meets either of the following criteria must file a Notice of Intent form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with the permit conditions. If you have questions about whether you need a NPDES stormwater permit, or if you need information to determine whether EPA or your state agency is the permitting authority, contact your EPA Regional Office.

**Completing the Form**

Obtain and read a copy of the 2017 CGP, viewable at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#cgp>. To complete this form, type or print uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, telephone EPA's NOI Processing Center at (866) 352-7755. **Please submit the original document with signature in ink - do not send a photocopied signature.**

**Section I. Approval to Use Paper NOI Form**

You must indicate whether you have been granted a waiver from electronic reporting from the EPA Regional Office. Note that you are not authorized to use this paper NOI form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

See <https://www.epa.gov/npdes/contact-us-stormwater#regional>

for a list of EPA Regional Office contacts.

**Section II. Permit Number**

Provide the master permit number of the permit under which you are applying for coverage (see Appendix B of the general permit for the list of eligible master permit numbers)

**Section III. Operator Information**

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this NOI. Refer to Appendix A of the permit for the definition of "operator".

Indicate whether you are seeking coverage under this permit as a "federal operator" as defined in Appendix A.

Also provide a point of contact, the operator's mailing address, county, telephone number, and e-mail address (to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

If the NOI was prepared by someone other than the certifier (for example, if the NOI was prepared by the facility SWPPP contact or a consultant for the certifier's signature), include the full name, organization, phone number, and email address of the NOI preparer.

**Section IV. Project/Site Information**

Enter the official or legal name and complete street address, including city, state, ZIP code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

Provide the latitude and longitude of your facility in decimal degrees format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and web-based siting tools, among others. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. For linear construction sites, the measurement should be taken midpoint of the site. If known, enter the horizontal reference datum for your latitude and longitude. The horizontal reference datum is shown on the bottom left corner of USGS topographic maps; it is also available for GPS receivers.

Indicate whether the project is in Indian country lands or located on a property of religious or cultural significance to an Indian tribe, and if so, provide the name of the Indian tribe associated with the area of Indian country (including name of Indian reservation, if applicable), or if not in Indian country, provide the name of the Indian tribe associated with the property.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 10/06/2012). Indicate to the nearest quarter acre the estimated area to be disturbed.

Indicate the type of construction site, if demolition is occurring, and if so, if the structure has at least 10,000 square feet of floor space. Indicate whether the pre-development land use of the site was used for agriculture Appendix A defines "agricultural land" as cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

Indicate whether earth-disturbing activities have already commenced on your project/site. If earth-disturbing activities have commenced on your site because stormwater discharges from the site have been previously covered under a NPDES permit, you must provide the 2012 CGP NPDES ID or the NPDES permit number if coverage was under an individual permit.

**Section V. Discharge Information**

You must confirm that you understand that the CGP only authorizes the allowable stormwater discharges listed in Part 1.2.1 and the allowable non-stormwater discharges listed in Part 1.2.2.

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Any discharges not expressly authorized under the CGP are not covered by the CGP or the permit shield provision of the CWA Section 402(k) and they cannot become authorized or shielded by disclosure to EPA, state, or local authorities via the NOI to be covered by the permit or by any other means (e.g., in the SWPPP or during an inspection). If any discharges requiring NPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.2.1 and 1.2.2 will be discharged, they must either be eliminated or covered under another NPDES permit.

Indicate whether discharges from the site will enter into a municipal separate storm sewer system (MS4), as defined in Appendix A.

Also, indicate whether any waters of the U.S. exist within 50 feet from your site. Note that if "yes", you are required to comply with the requirement in Part 2.2.1 of the permit to provide natural buffers or equivalent erosion and sediment controls.

For each unique point of discharge you list, you must specify the name of the first water of the U.S. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to. You must specify whether any waters of the U.S. that you discharge to are listed as "impaired" as defined in Appendix A, and the pollutants for which the water is impaired. You must identify any Total Maximum Daily Loads (TMDL) that have been completed for any of the waters of the U.S. that you discharge to.

Indicate whether discharges from the site will enter into a water of the U.S. that is designated as a Tier 2, Tier 2.5, or Tier 3 water. A list of Tier 2, 2.5, and 3 waters is provided as Appendix F. If the answer is "yes", name all waters designated as Tier 2, Tier 2.5, or Tier 3 to which the site will discharge.

**Section VI. Chemical Treatment Information**

Indicate whether the site will use polymers, flocculants, or other treatment chemicals. Indicate whether the site will employ cationic treatment chemicals. If the answer is "yes" to either question, indicate which chemical(s) you will use. Note that you are not eligible for coverage under this permit to use cationic treatment chemicals unless you notify your applicable EPA Regional Office in advance and the EPA office authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. If you have been authorized to use cationic treatment chemicals by your applicable EPA Regional Office, attach a copy of your authorization letter and include documentation of the appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. Examples of cationic treatment chemicals include, but are not limited to, cationic polyacrylamide (C-PAM), PolyDADMAC (POLYDIALLYLDIMETHYLAMMONIUM CHLORIDE), and chitosan.

**Section VII. Stormwater Pollution Prevention Plan (SWPPP) Information**

All sites eligible for coverage under this permit are required to prepare a SWPPP in advance of filing the NOI, in accordance with Part 7. Indicate whether the SWPPP has been prepared in advance of filing the NOI.

Indicate the street, city, state, and ZIP code where the SWPPP can be found. Indicate the contact information (name, organization, phone, and email) for the person who developed the SWPPP for this project.

**Section VIII. Endangered Species Information**

Use the instructions in Appendix D, indicate under which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of ESA-listed endangered and threatened species and designated critical habitat. A description of the basis for the criterion selected must also be provided.

If criterion B is selected, provide the NPDES Number for the other operator who had previously certified their eligibility for the CGP under criterion A, C, D, E, or F. The Tracking Number was assigned when the operator received coverage under this permit, and is included in the notice of authorization.

If criterion C is selected, you must attach copies of your site map. See Part 7.2.4 of the permit for information about what is required to be in your site map. You must also specify the federally-listed species and/or federally-designated critical habitat that are located in the "action area" of the project, and provide the distance between the construction site and any listed endangered species and/or their designated critical habitat.

If criterion D, E, or F is selected, attach copies of any communications between you and the U.S. Fish and Wildlife Service and National Marine Fisheries Service and identify the participating agencies and Field Offices/Regional Offices you worked with in the basis statement of this NOI.

**Section IX. Historic Preservation**

Use the instructions in Appendix E to complete the questions on the NOI form regarding historic preservation.

**Section X. Certification Information**

The NOI must be signed as follows:

*For a corporation:* By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

*For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

*For a municipality, state, federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or



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(ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA). Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

**Modifying Your NOI**

**If you have been granted a waiver from your Regional Office from electronic reporting, and if after submitting your NOI you need to correct or update any fields on this NOI form, you may do so by indicating changes on this same form. Paperwork Reduction Act Notice**

Public reporting burden for this NOI is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch 2136, U.S. Environmental Protection, Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number on

any correspondence. Do not send the completed form to this address.

**Submitting Your Form**

Submit your NOI form by mail to one of the following addresses:

**For Regular U.S. Mail Delivery:**

Stormwater Notice Processing Center  
Mail Code 4203M, ATTN: 2017 CGP  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**For Overnight/Express Mail Delivery:**

Stormwater Notice Processing Center  
William Jefferson Clinton East Building - Room 7420  
ATTN: 2017 CGP  
U.S. EPA  
1201 Constitution Avenue, NW  
Washington, DC 20004

Visit this website for instructions on how to submit electronically:

<https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>

**Appendix K - Notice of Termination (NOT) Form and Instructions**

Part 8.3 requires you to use the NPDES eReporting Tool, or "NeT" system, to prepare and submit your NOT electronically. However, if you are given a waiver by the EPA Regional Office to use a paper NOT form, and you elect to use it, you must complete and submit the following form.



Submission of this Notice of Termination constitutes notice that the operator identified in Section III of this form is no longer authorized discharge pursuant to the NPDES Construction General Permit (CGP) from the site identified in Section IV of this form. All necessary information must be included on this form. Refer to the instructions at the end of this form.

**I. Approval to Use Paper NOT Form**

Have you been granted a waiver from electronic reporting from the Regional Office \*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

- Waiver granted:  The owner/operator's headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.
- The owner/operator has issues regarding available computer access or computer capability.

Name of EPA staff person that granted the waiver: \_\_\_\_\_

Date approval obtained: \_\_\_\_/\_\_\_\_/\_\_\_\_

**\* Note: You must have been given approval by the Regional Office prior to using this paper NOT form. If you have not obtained a waiver, you must file this form electronically using the NPDES eReporting Tool (NeT).**

**II. Permit Information**

NPDES ID: \_\_\_\_\_

Reason for Termination (Check only one):

- You have completed all construction activities at your site, and you have met all other requirements in Part 8.2.1.
- Another operator has assumed control over all areas of the site and that operator has submitted an NOI and obtained coverage under the CGP.
- You have obtained coverage under an individual permit or another general NPDES permit addressing stormwater discharges from the construction site.

**III. Operator Information**

Operator Name: \_\_\_\_\_

Mailing Address:

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ ZIP Code: \_\_\_\_\_ - \_\_\_\_\_

County or Similar Government Division: \_\_\_\_\_

Phone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Ext. \_\_\_\_\_

E-mail: \_\_\_\_\_

**IV. Project/Site Information**

Project/Site Name: \_\_\_\_\_

Project/Site Address:

Street/Location: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ ZIP Code: \_\_\_\_\_ - \_\_\_\_\_

County or Similar Government Division: \_\_\_\_\_

**V. Certification Information**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

First Name, Middle Initial, Last Name:

Title:

Signature: \_\_\_\_\_ Date:  /  /

Email:

**Notice of Termination for the 2017 NPDES  
Construction General Permit**

NPDES Form Date (2/17)

This Form Replaces Form 3510-13 (02/12)

Form Approved OMB No. 2040-0004

**Who May File an NOT Form**

Permittees who are presently covered under the EPA-issued 2017 Construction General Permit (CGP) for Stormwater Discharges Associated with Construction Activity may submit an NOT form when: (1) earth-disturbing activities at the site are completed and the conditions in Parts 8.2.1.a through 8.2.1.b are met; or (2) the permittee has transferred all areas under its control to another operator, and that operator has submitted and obtained coverage under this permit; or (3) the permittee has obtained coverage under a different NPDES permit for the same discharges.

**Completing the Form**

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, refer to <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#cgp> or telephone EPA's NOI Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

**Section I. Approval to Use Paper NOT Form**

You must indicate whether you have been granted a waiver from electronic reporting from the EPA Regional Office. Note that you are not authorized to use this paper NOT form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

See <https://www.epa.gov/npdes/contact-us-stormwater#regional> for a list of EPA Regional Office contacts.

**Section II. Permit Information**

Enter the existing NPDES ID assigned to the project. If you do not know the permit tracking number, or contact EPA's NOI Processing Center at (866) 352-7755.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one.

**Section III. Operator Information**

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this NOT and is covered by the NPDES ID identified in Section II. Enter the complete mailing address, telephone number, and email address of the operator.

**Section IV. Project/Site Information**

Enter the official or legal name and complete street address, including city, state, ZIP code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for termination of permit coverage to be valid.

**Section V. Certification Information**

The NOT, must be signed as follows:

*For a corporation:* By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing,

production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

*For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

*For a municipality, state, federal, or other public agency:* By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name, title, and email address of the person signing the form and the date of signing. An unsigned or undated NOT form will not be considered valid termination of permit coverage.

**Paperwork Reduction Act Notice**

Public reporting burden for this NOT is estimated to average 0.5 hours per notice, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB number on any correspondence. Do not send the completed form to this address.

**Submitting Your Form:**

Submit your NOT form by mail to one of the following addresses:

**For Regular U.S. Mail Delivery:**

Stormwater Notice Processing Center  
Mail Code 4203M, ATTN: 2017 CGP  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**For Overnight/Express Mail Delivery:**

Stormwater Notice Processing Center  
William Jefferson Clinton East Building - Room 7420  
ATTN: 2017 CGP  
U.S. EPA  
1201 Constitution Avenue, NW  
Washington, DC 20004

Visit this website for instructions on how to submit electronically:

<https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>

### **Appendix L – Suggested Format for Request for Chemical Treatment**

If you plan to add “cationic treatment chemicals” (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, Part 1.1.9 requires you to notify your applicable EPA Regional Office in advance of submitting your NOI. The EPA Regional Office will authorize coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to an exceedance of water quality standards. To notify your EPA Regional Office, you may use following form.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460  
SUGGESTED FORMAT FOR NOTIFYING EPA ABOUT PROPOSED USE OF CATIONIC TREATMENT CHEMICALS  
UNDER THE 2017 NPDES CONSTRUCTION GENERAL PERMIT**

Under Part 1.1.9 of the 2017 CGP, if you plan to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, you may not submit your Notice of Intent (NOI) until you notify your applicable EPA Regional Office in advance and the EPA Regional Office authorizes coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards. You may use this suggested form to notify your EPA Regional Office about your proposed use of cationic treatment chemicals.

**I. Operator Information**

Operator Name:

Mailing Address:

Street:

City:  State:  ZIP Code:  -

Phone:  -  -  Ext.

E-mail:

**II. Project/Site Information**

Project/Site Name:

Project/Site Address:

Street/Location:

City:  State:  ZIP Code:  -

County or Similar Government Subdivision:

Site contact name (if different from operator):

Site contact phone (if different from operator):  -  -

Name(s) of receiving waterbodies: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. Map**

Attach a map that illustrates the entire site including all of the below items. Include this map in your Stormwater Pollution Prevention Plan (SWPPP):

- All receiving waterbodies
- All proposed location(s) of chemical treatment system(s)
- All proposed point(s) of discharge to receiving waterbodies
- All soil types within areas to be disturbed
- All area of earth disturbance
- Sufficient indication of topography to indicate where stormwater flows

Attach a schematic drawing of the proposed treatment system(s). Include all components of the treatment train, sample points, and pipe configurations. In addition to sufficient holding capacity upstream of treatment, the system must have the capacity to hold water for testing and to re-treat water that does not meet water quality standards.

#### IV. Responsible Personnel

Treatment System Operator or Company Name (if subcontracted out):

Street/Location:

City:  State:  Zip Code:  -

Responsible personnel. List personnel who will be responsible for operating the chemical treatment systems and application of the chemicals. Cite the training that the personnel have received in operation and maintenance of the treatment system(s) and use of the specific chemical(s) proposed.

#### V. Proposed Treatment

Check proposed treatment system.

- Chitosan enhanced sand filtration with discharge to infiltration (ground water)
- Chitosan enhanced sand filtration with discharge to temporary holding ponds (batch).
- Chitosan enhanced sand filtration with discharge to surface waters (flow-through).
- Other (describe below and submit documentation that the proposed system and chemical(s) demonstrate the ability to remove turbidity and produce non-toxic effluent/ discharge)

Check proposed cationic chemical(s) to be used:

- FlocClear™ (2% chitosan acetate solution)
- StormKlear™ LiquiFloc™ (1% chitosan acetate solution).
- ChitoVan™ (1% chitosan acetate solution).
- StormKlear™ LiquiFloc™ (3% Chitosan acetate solution)
- Other \_\_\_\_\_

Estimated Treatment Period Start Date:  /  /

Estimated Treatment Period End Date:  /  /

Describe sampling and recordkeeping schedule. Attach additional sheets as needed:

Explain why you have selected this proposed treatment system and chemicals. Include an explanation of why the use of cationic treatment chemicals is necessary at the site. Reference how the soil types on your site influenced your choices. Describe or provide an illustration of how the site of the discharge will be stabilized and why the discharge location will not cause erosion of the discharge water's bank or bed (please note that a permit from the Corps and state agencies may be necessary to place rock in the water body for this stabilization). Attach as many additional sheets as needed for a full explanation. If you have a report from a chemical treatment contractor describing their recommended approach you may attach that.



**VI. Certification Information**

I have documented and hereby certify that the following information is correct and has been documented in the SWPPP for this project:

- The SWPPP includes a complete site-specific description of the chemical treatment system herein proposed for use, including specifications, design, and Material Safety Data Sheets for all chemicals to be used.
- The controls to be used on the site are compatible with the safe and effective use of cationic chemical treatment.
- I verified through jar tests that the site soil is conducive to chemical treatment.
- I verified that the chemical treatment system operators for this project received training.
- I read, understand, and will follow all conditions and design criteria in the applicable use designation(s).
- If the discharge is to tribal waters, I notified the appropriate tribal government of the intent to use chemical treatment on a site located within that jurisdiction.
- I will keep the use level designation, operation and maintenance manual, and training certificate on site prior to and during use of chemical treatment.
- A licensed engineer designed the system for this project including system sizing, pond sizing, and flow requirements.
- I verify that the discharge will not adversely affect downstream conveyance systems or stream channels (e.g. cause erosion).

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Authorized Official First Name, Middle Initial, Last Name:

Title:

Signature: \_\_\_\_\_ Date:  /  /

Email:

**Instructions for Submitting This Form:**

Submit your this form to your applicable EPA Regional Office. Contact information can be found at: <https://www.epa.gov/npdes/contact-us-stormwater#regional>

NPDES  
FORM



United States Environmental Protection Agency  
Washington, DC 20460  
**Low Erosivity Waiver (LEW) Certification**

This form provides notice to EPA that you, the project operator identified in Section II of this form, are certifying that construction activity at the project site identified in Section III, will take place during a period when the rainfall erosivity factor is less than five [40 CFR 122.26(b)(15)(i)(A)]. By submitting a complete and accurate form, the otherwise applicable NPDES permitting requirements for stormwater discharges associated with construction activity, are waived. Based on your certification, a waiver is granted for the period beginning on the date this Low Erosivity Waiver Form is mailed to EPA (i.e., postmark date), or the project start date specified in Part IV of this form, whichever shall occur last, and ending on the project completion date specified in Part IV. Refer to the instructions at the end of this form for more details.

**I. Approval to Use Paper Form**

Have you been granted a waiver from electronic reporting from the Regional Office \*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

- Waiver granted:  The owner/operator's headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.
- The owner/operator has issues regarding available computer access or computer capability.

Name of EPA staff person that granted the waiver: [Grid]

Date approval obtained: [Grid]

\* Note: You are required to obtain approval from the applicable Regional Office prior to using this paper Low Erosivity Waiver Certification form. If you have not obtained a waiver, you must file this form electronically using the NPDES eReporting Tool (NeT).

**II. Operator Information**

Operator Name: [Grid]

Are you requesting coverage under this NOI as a "federal operator" as defined in Appendix A?  YES  NO

Mailing Address:

Street: [Grid]

City: [Grid] State: [Grid] Zip Code: [Grid]

County or Similar Government Division: [Grid]

Phone: [Grid] - [Grid] - [Grid] Ext. [Grid]

Email: [Grid]

Operator Point of Contact Information:

First Name, Middle Initial, Last Name: [Grid]

Title: [Grid]

**III. Project/Site Information**

Project/Site Name: [Grid]

Project/Site Address:

Street/Location: [Grid]

City: [Grid] State: [Grid] ZIP Code: [Grid]

County or Similar Government Subdivision: [Grid]

For the project/site you are seeking a waiver for permit coverage, provide the following information:

Latitude/Longitude (Use decimal degrees and specify method):

Latitude: \_\_\_\_\_ ° N (decimal degrees) Longitude: \_\_\_\_\_ ° W (decimal degrees)

Latitude/Longitude Data Source:  Map  GPS  Other \_\_\_\_\_ Horizontal Reference Datum:  NAD 27  NAD 83  WGS 84

• Is your project/site located in Indian country lands, or located on a property of religious or cultural significance to an Indian tribe?  YES  NO

If yes, provide the name of the Indian tribe associated with the area of Indian country (including name of Indian reservation, if applicable), or if not in Indian country, provide the name of the Indian tribe associated with the property:

• Is the project located in the State of Oklahoma and associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171)?  Yes  No

• Is the project located in the State of Oklahoma and associated with agricultural production, services and silviculture (includes SIC Groups 01, 02, 07, 08 and 09)?  Yes  No

• Is the project located in the State of Texas and associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation or crude oil or natural gas by pipeline?  Yes  No

Estimated Area to be Disturbed (to the nearest quarter acre): \_\_\_\_\_

**IV. Rainfall Erosivity Factor Calculation Data**

Estimated Project Start Date: \_\_\_\_\_ Estimated Project Completion Date: \_\_\_\_\_

Rainfall erosivity factor (R factor): \_\_\_\_\_

Note: To qualify for this waiver, the construction activity must take place during a period when the R factor is less than five.

Rainfall erosivity factor was calculated by using:  Online calculator  EPA Fact Sheet 3-1  USDA Handbook 703

Are interim non-vegetative site stabilization measures used to establish the project completion date for purposes of obtaining this waiver?  Yes  No

**V. Certification Information**

I certify under penalty of law that: (1) construction activity at the project or site specified in Part II shall disturb less than five acres and shall take place during a period when the rainfall erosivity factor is less than five, (2) final stabilization will be completed as defined in the Construction General Permit, and (3) this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. Further, if interim non-vegetative measures are used to establish the end of the construction period for the purposes of obtaining this waiver, I commit to periodically inspect and properly maintain the area until the criteria for final vegetative stabilization have been met.

First Name, Middle Initial, Last Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Email: \_\_\_\_\_

**Low Erosivity Waiver Certification**

NPDES Form

Form Approved OMB No. 2040-0004

**Who May Qualify for a Low Erosivity Waiver**

Under the National Pollutant Discharge Elimination System (NPDES) Program, operators of construction projects that result in land disturbances equal to or greater than one acre, including sites that are less than one acre but are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, are required to obtain coverage under an NPDES permit for stormwater discharges associated with construction activity. EPA may waive the otherwise applicable permit requirements for stormwater discharges from construction activities that disturb less than five acres if the construction activity will take place during a period when the rainfall erosivity factor (R factor) is less than five. More information on the low erosivity waiver is available on the web in the Construction Rainfall Erosivity Waiver Fact Sheet at <https://www.epa.gov/npdes/construction-rainfall-erosivity-waiver-fact-sheet> and can be accessed from <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites>. For questions related to completion of this form, you may contact EPA's Notice of Intent Processing Center toll free at 1-866-352-7755.

**Completing the Form**

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. **Please submit the original document with signature in ink - do not send a photocopied signature.**

**Section I. Approval to Use Paper Low Erosivity Waiver Form**

You must indicate whether you have been granted a waiver from electronic reporting from the EPA Regional Office. Note that you are not authorized to use this paper Low Erosivity Waiver form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

See <https://www.epa.gov/npdes/contact-us-stormwater#regional> for a list of EPA Regional Office contacts.

**Section II. Operator Information**

Each legal entity that meets EPA's definition of "operator" (see definitions in Appendix A of EPA's NPDES Construction General Permit) and that meets the eligibility conditions for the low erosivity waiver must file this form to have the permit requirements waived. The operator is any party associated with a construction activity that meets either of the following two criteria: (1) the party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit). It is possible that there will be more than one operator at a site and, in such cases, each entity that meets the operator definition must complete a Low Erosivity Waiver Certification. Provide the legal name of your firm, public organization, or other entity that operates the project described in this waiver certification. Usually this will be a company or organization's name but for construction activities undertaken by you as an individual, this should be your name.

Indicate whether you are seeking a waiver for permit coverage under this permit as a "federal operator" as defined in Appendix A.

Also provide the operator's mailing address, country, telephone number, and e-mail address for someone who can answer questions about the site (e.g., a project or site manager). Enter a point of contact (if different from the operator's name).

**Section III. Project/Site Information**

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project lacks a street address, indicate the general location of the site (e.g., intersection of State Highways 61 and 34).

Provide the latitude and longitude of your facility in decimal degrees format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and web-based siting tools, among others. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. For linear construction sites, the measurement should be taken midpoint of the site. If known, enter the horizontal reference datum for your latitude and longitude. The horizontal reference datum is shown on the bottom left corner of USGS topographic maps; it is also available for GPS receivers.

Indicate whether the project is in Indian country lands or located on a property of religious or cultural significance to an Indian tribe, and if so, provide the name of the Indian tribe associated with the area of Indian country (including name of Indian reservation, if applicable), or if not in Indian country, provide the name of the Indian tribe associated with the property. Answer the other three questions on projects located in Oklahoma and Texas. This information is used to determine whether EPA is the permitting authority for the construction project, and thus has authority to waive the otherwise applicable requirements of the Construction General Permit.

Enter the area (estimated to the nearest quarter acre) to be disturbed including, but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Note: 1 acre = 43,560 sq. ft.

**Section IV. Rainfall Erosivity Factor Calculation Data**

The construction period begins with the initial earth disturbance and ends with final site stabilization. To qualify for this waiver, the rainfall erosivity factor for the project must be less than five during the entire construction period. Specify the construction period by entering the project start date (date of initial earth disturbance) and project completion date (date of final site stabilization). For example, a grading contractor that is operating on-site for only one week during a nine month construction project, must enter the start date and completion date of the entire nine month construction period.

Where the environmental threat is low (i.e., in arid and semi-arid climates), "final stabilization" can include techniques that employ re-vegetation combined with other stabilization measures, consisting of temporary degradable rolled erosion control products, also known as "erosion control blankets (ECBs)". With proper selection, design, and installation of the combination re-vegetation/ECB technique in arid or semi-arid areas, an operator can be considered to have achieved final stabilization upon completion of the installation process. Note that if more than three years is required to establish 70 percent of the cover that is provided by vegetation native to local undisturbed area, this technique cannot be used or cited for fulfillment of the final stabilization requirement. If your waiver is based on use of interim non-vegetative stabilization measures, such as erosion control blankets, to establish the end of the construction

## Low Erosivity Waiver Certification

NPDES Form

Form Approved OMB No. 2040-0004

period, you must indicate so on this form. In doing so, you must commit and certify (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization, as defined in the Construction General Permit, have been met.

The rainfall erosivity factor "R" is determined in accordance with the U.S. Department of Agriculture *Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE)*, Chapter 2 pages 21-64, dated January 1997. EPA's Construction Rainfall Erosivity Waiver Fact Sheet (EPA 833-F-00-014), available online at <https://www3.epa.gov/npdes/pubs/fact3-1.pdf> defines rainfall erosivity and provides numerical examples showing how to calculate your rainfall erosivity factor. You may use the fact sheet approach or the online rainfall erosivity factor calculator available at: <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites> to calculate your rainfall erosivity factor for your project.

If the R factor is five or greater during the project's construction period, you must have or obtain coverage under an NPDES stormwater permit. If the project was eligible for the waiver during the original construction period, but the construction activity will extend past the project completion date specified in the Low Erosivity Waiver Certification, the operator must recalculate the R factor using the original start date and a new project completion date. If the recalculated R factor is still less than five, a new waiver certification form must be submitted before the end of the original construction period. If the new R factor is five or greater, the operator must submit a Notice of Intent to be covered by the Construction General Permit before the original project completion date. The Notice of Intent (NOI) form may be submitted electronically using EPA's NPDES eReporting Tool (NeT) at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>. If the EPA Regional Office grants you a waiver from electronic reporting, you may submit a paper NOI form available on the EPA website at <https://www.epa.gov/npdes/epas-2017-construction-general-permit-cgp-and-related-documents>.

### Section V. Certification Information

All Low Erosivity Waiver Certification forms must be signed as follows:

*For a corporation:* By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (i) president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* By a general partner or the proprietor, respectively; or

*For a municipality, state, federal, or other public facility:* By either a principal executive officer or ranking elected official. For purposes

of this Section, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name, title, and email address of the person signing the form and the signature date. An unsigned or undated Low Erosivity Waiver Certification will not be considered valid.

### Where to File This Form

Low Erosivity Waiver Certification forms must be sent to one of the following two addresses.

#### Regular U.S. Mail Delivery

EPA Stormwater Notice  
Processing Center  
Mail Code 4203M  
Attn: 2017 CGP  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

#### Overnight/Express Mail Delivery

EPA Stormwater Notice  
Processing Center  
Room 7420  
Attn: 2017 CGP  
U.S. EPA  
1201 Constitution Avenue, NW  
Washington, DC 20004

**Please submit the original form with a signature in ink. Do not send a photocopied signature!**

### Paperwork Reduction Act Notice

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