



FACT SHEET
(pursuant to NAC 445A.236)

- Permit Name:** General Permit for “Stormwater Discharges Associated with Large Construction Activity, Small Construction Activity and Industrial Activity from Temporary Concrete, Asphalt, and Material Plants or Operations Dedicated to the Permitted Construction Project”
- Permit Number:** NVR100000
- Location:** Currently, there are approximately 1,700 separate construction projects permitted statewide.
- Flow:** In response to non-point source discharges from precipitation (rainfall and snowmelt)
- Description of Discharge:** Stormwater runoff from construction sites and construction related industrial sites such as batch plants. Typical pollutants include sediments, suspended and dissolved solids and minerals eroded from exposed surfaces.
- Receiving Water Characteristics:** Variable depending on construction site location.
- Purpose:** Nevada Division of Environmental Protection (NDEP) is proposing a reissuance of the existing construction general permit which was last issued in September 2007.

I. Background

Prior to the Water Quality Act of 1987, there were numerous questions regarding the appropriate means of regulating stormwater discharges within the NPDES program due to the serious water quality impacts of stormwater discharges, the variable nature of stormwater, and the large number of stormwater point sources. EPA undertook numerous regulatory actions in an attempt to address these unique discharges. Congress, with the addition of section 402(p), established a structured and phased approach to address stormwater discharges and fundamentally altered the way stormwater is addressed under the CWA as compared with other point source discharges of pollutants.

In 1990, pursuant to section 402(p)(4), EPA promulgated the Phase I stormwater regulations. The Phase I regulations required NPDES permit coverage for discharges associated with industrial activity and from “large” and “medium” municipal separate storm sewer systems (MS4s). As part of that rulemaking, the Agency interpreted stormwater “discharges associated with industrial activity” to include stormwater discharges associated with “construction activity” as defined at 40 CFR 122.26(b)(14)(x). As described in the Phase I regulations, dischargers must apply for and obtain permit coverage for discharges associated with construction activity, including clearing, grading, and excavation, if the construction activity will result in the disturbance of five acres or more, or will result the disturbance of less than five acres but is part of a larger common plan of development or sale if the larger common plan will disturb five acres or more.

The Storm Water Phase II Final Rule was the next step in EPA’s effort to preserve, protect, and improve the Nation’s water resources from polluted stormwater runoff. The Phase II Final Rule of 1999 expanded the Phase I program by requiring additional operators of MS4s in urbanized areas and operators of small construction sites, through the use of NPDES permits, to implement programs and practices to control polluted stormwater runoff. Specifically, the Phase II final rule covers two additional classes of stormwater dischargers on a nationwide basis; operators of small MS4s and Operators of small construction activities that will disturb equal to or greater than one acre.

On December 1, 2009 EPA finalized Effluent Limitation Guidelines and New Source Performance Standards for the construction and development industry (i.e., the “C&D rule”). The C&D rule became effective on February 1, 2010. The requirements in the C&D rule include a suite of non-numeric effluent limitations that apply to all permitted construction sites. (40 CFR.450.21.) The non-numeric limits include requirements for:

- Erosion and Sediment Controls;
- Soil Stabilization;
- Pollution Prevention Measures;
- Dewatering;
- Prohibited Discharges; and
- Surface Outlets.

EPA’s objective in promulgating the non-numeric effluent limits that apply to discharges from construction sites is to prevent the mobilization and discharge of sediment turbidity, and other sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize the exposure of stormwater to construction materials, debris, and other sources of pollutants on construction sites. The non-numeric effluent limits are structured to require operators to “first prevent the discharges of sediments and other pollutants through the use of effective planning and erosion control measures; and second, to control discharges that do occur through the use of effective sediment control measures”. The effluent limits also require the operator to implement a range of pollution prevention measures, as mentioned above, to limit or prevent discharges of other types of non-sediment pollutant discharges.

In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants, such as nutrients, organics, pesticides, herbicides and metals that may be present naturally in

the soil on construction sites such as arsenic or selenium, or may have been contributed by previous activities on the site such as agriculture or industrial. These pollutants, once mobilized by rainfall and stormwater, can detach from soil particles and become dissolved pollutants. Once dissolved, these pollutants can be difficult to remove by down-slope sediment controls. Source control through minimization of soil erosion is therefore the most effective way of controlling the discharge of these pollutants.

Several of the provisions in NDEP's 2007 Construction General Permit (2007 CGP) are retained in NDEP's 2014 Construction General Permit (2014 CGP) because they already satisfied the intent of the EPA's new C&D rule. This 2014 CGP Fact Sheet will detail how NDEP has incorporated the new provisions into the 2014 CGP in the sections below. The discussion will include a summary of the changes along with the rationale for the provisions.

II. Summary of Significant Changes to the CGP

The final permit includes a number of new or modified requirements, many of which are related to the implementation of the new C&D rule effluent limits and thus differ from the 2007 CGP. The following list summarizes these changes.

Structure and Appearance of the Permit

NDEP attempted to restructure the 2014 CGP so that it would be better organized to present requirements in a generally more readable manner. It is NDEP's hope that this structure will enhance the Permittee's understanding of and compliance with the permit's requirements. Additionally NDEP has added sections and language as appropriate to meet the new C&D rule requirements.

Waiver Eligibility

Part 1.1.2 removes the option for waiver for sites between 1 and 5 acres. Typically the only projects that should qualify for waiver eligibility are projects that are permanently stabilized within a few months after the start of construction. That means that projects relying on seeding for re-vegetation will usually not qualify for the waiver, because the vegetation must be established before the site is considered stabilized. Due to Nevada's arid environment, NDEP finds these waiver-permitted sites are rarely permanently stabilized within their permitted waiver timelines. Additionally NDEP is finding that appropriate BMPs are not being installed, managed or maintained at a majority of these waiver-permitted sites. To better manage stormwater runoff from these sites NDEP is proposing to remove the waiver eligibility from the permit. All sites with 1 or more acres of disturbance that discharge to a Water of the State that meets the Definition of Waters of the U.S. will need to apply for permit coverage.

Allowable Non-Stormwater Discharges

NDEP has removed the following non-stormwater discharges currently allowed in the 2007 CGP:

- Potable water sources including water line flushing
- Uncontaminated ground or spring water
- Foundation or footing drains where flows are not contaminated
- Process materials such as solvents

- Potable water well flushing where the receiving waters are ephemeral.

NDEP has proposed to remove the above listed discharges from the construction permit as they can be more effectively regulated under the separately issued DeMinimis General Permit NVG201000. As point source discharges, there are additional requirements that must be met to protect Waters of the State. To address concerns related to the removal of these discharges, NDEP has proposed language in the new permit that will allow for a single location deminimis discharge provision, similar to the current permit, with a discharge allowance up to 250 gallons per minute (gpm) for no more than 30 days. Parts 1.2.3 Allowable Non-Stormwater DeMinimis Discharges, 3.8 Dewatering Practices, and Appendix B DeMinimis Discharge Table, detail the requirements for this provision. For sites with greater than 250 gpm discharges, more than one discharge point, or lasting more than 30 days, NDEP has issued the DeMinimis General Permit NVG201000 to address these discharges and requirements.

The language in Part 1.2.2.1.5 has been expanded to enforce that directing pavement wash waters directly into any surface water, storm drain inlet, or stormwater conveyance without the appropriate pollution control measure in place is prohibited. Additionally Part 1.2.2.1.5 was added to specify dewatering of accumulated stormwater as an allowable discharge.

Discharges to Water Quality Impaired Waters

To better clarify actions necessary for a discharge to 303 (d) listed waters, NDEP has added to Part 1.4.4 language derived in part from the EPA 2012 CGP as follows: “*A discharge to a surface water contained in the current 303(d) Impaired Water Body listing issued by NDEP Bureau of Water Quality Planning (BWQP), that is impaired for (1) sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or (2) nutrients, including impairments for nitrogen and/or phosphorus shall make one of the following demonstrations and retain such data and/or technical information on site with the Stormwater Pollution Prevention Plan (SWPPP):*

- *1.4.4.1 That the site will employ measures to prevent the discharge of stormwater pollutant(s) for which the waterbody is impaired; or*
- *1.4.4.2 That the discharge from the site has no potential to contain the pollutants causing impairment; or*
- *1.4.4.3 That the discharge is not expected to cause or contribute to an exceedence of an applicable water quality standard.*

The following definition, acquired in part from the EPA 2012 CGP, has also been added to the Appendix A Definitions to better define what is considered a discharge to 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 NDEP, pursuant to section 303(d) of the Clean Water Act, as not meeting an applicable water quality standard. For discharges that enter a storm drain system prior to discharge, the first surface water to which you discharge is the water body that receives the stormwater discharge from the storm drain system.*”

Exempt Discharges

Language in Part 1.4.6.1 has been revised to address construction projects less than 1 acre rather than the previous 5 acre threshold.

Owner/Operator Responsibility

Part 2.1 is new to this permit and has been added to clarify and define “Owner/Operator”, “Owner/Operator Responsibility”, and “Multiple Operators” requirements. This section follows as such:

2.1 Owner/Operator Responsibility

2.1.1 All Operators. *All operators are required to obtain coverage for stormwater discharges associated with construction activity under this permit. In some cases, an operator may be the owner or the developer, in other cases the operator may be the general contractor. In the event of a default by the “Operator” submitted on the NOI, NDEP will consider the “Owner” submitted on the NOI as the responsible “Operator”. For the purpose of this permit, an “Operator” is any person associated with the construction project who meets the following criteria:*

2.1.1.1 *The person has operational control over the construction plans and specifications, including the ability to make modifications to those plans and specifications; or*

2.1.1.2 *The person 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).*

2.1.2 Multiple Operators. *Where there are multiple operators associated with the same project, each operator is required to file an NOI for permit coverage. The following applies in these situations:*

2.1.2.1 *If one operator has control over plans and specifications and a different operator has control over activities at the project site, they may divide responsibility for compliance with the terms of this permit and jointly develop a common SWPPP that documents which operator has responsibility for each requirement of the permit.*

2.1.2.2 *If an operator only has operational control over a portion of a larger project (e.g. one of the four homebuilders in a subdivision), the operator is responsible for compliance with applicable effluent limits, terms and conditions of this permit as it relates to their activities on their portion of the construction site, and implementation of control measures described in the SWPPP in the areas under their control.*

- 2.1.2.3 *Operators shall ensure, either directly or through coordination with other operators, that their activities do not render another operator's pollutant discharge controls ineffective.*

Electronic Application Requirements

Part 2.3 specifies that NOIs must be submitted using NDEP's electronic NOI system. The NOI application and renewal application may be accessed via the NDEP website at <https://genpermits.ndep.nv.gov>

NDEP has changed the requirement for filing a Notice of Intent (NOI) from 2 days prior to disturbance to 14 days prior to disturbance. This change is intended to allow NDEP time to review the NOI for completeness, receive fees and provide an approval letter before any land disturbing activity occurs at the permitted site.

Language in Part 2.4.2 has been revised to address notification of an incomplete application and states as follows: “ *NDEP will notify an applicant of an incomplete application within 7 days of receipt of the NOI Certification Page in the Bureau of Water Pollution Control.*”

Terminating Coverage

NDEP will continue to use a hard-copy Notice of Termination (NOT) form available at <http://ndep.nv.gov/bwpc/forms.htm>. The submitted form shall include a wet signature; copies will not be accepted. The sites authorization to discharge shall expire at midnight of the day heat a complete NOT form is received by NDEP.

Should an electronic NOT version become available during the term of this permit a link for this option will be provided on the NDEP Stormwater page at http://ndep.nv.gov/bwpc/storm_cont03.htm

Change of Owner/Operator

NDEP has revised the process for changing of Owner/Operator responsibility. The Notice of Change (NOC) form used by the state will no longer be valid to change owner/operator. To be consistent with all the State's general permits the following is the revised Part 2.4.4:

Change of Owner/Operator - For construction projects where the owner/operator changes, including instances where an operator is added after an NOI has been submitted, the following shall apply:

- 2.4.4.1 *Current operator shall notify the succeeding owner/operator of the existence of this permit by letter, a copy of which shall be forwarded to NDEP for file record;*
- 2.4.4.2 *New operator shall update SWPPP documents as needed or develop and implement a new SWPPP to comply with permit requirements in Part 6.0; and submit an NOI within 14 calendar days of taking over operational control of the site; and*
- 2.4.4.3 *Current operator shall submit a Notice of Termination (NOT) within 30 calendar days after the new owner/operator assumes responsibility for the site.*

Authorization of Emergency-Related Construction Activities

NDEP has added part 2.5 to provide immediate authorization for construction activities required for response to public emergencies (e.g., natural disasters such as an earthquake or flooding, or widespread disruption in essential public services). Immediate authorization will enable work that is necessary to avoid imminent endangerment to human health or the environment, or to reestablish essential public services, to proceed without delay. The construction operator must submit an NOI and develop a stormwater pollution prevention plan (SWPPP) within 30 calendar days after commencing earth-disturbing activities, whereas typically operators must submit NOIs 14 days prior to commencing earth-disturbing activities.

Use of Cationic Treatment Chemicals

NDEP has added part 1.4.8 to address the use of cationic treatment chemicals. The use of cationic treatment chemicals (as defined in Appendix A), are ineligible for coverage under this permit, unless the Permittee notifies NDEP in advance and the Administrator authorizes the coverage under this permit. The Permittee must include appropriate controls and implementation procedures designed to ensure that any approved use of cationic treatment chemicals will not lead to a violation of water quality standards.

Requirement to Post a Notice of Permit Coverage

NDEP has added Part 2.7 which requires Permittees to conspicuously post a sign or other notice that includes the site ID (CSW-xxxxx) and a contact name and telephone number.

C&D Rule Requirements

Part 3.4 through Part 4.2 language has been added to the permit to specifically address the new C&D rule requirements. While some of these requirements are already included in the 2007 CGP, this permit includes more detail and additional requirements in order to more closely clarify the language and organization of the C&D rule. The following Parts can be considered as additions and modifications to the current permit:

- Part 3.4 Erosion and Sediment Control
 - 3.4.2 Design Requirements
 - 3.4.4 Installation Requirements

- Part 3.5 Erosion and Sediment Control Required by All Sites
 - 3.5.1 Maintain Natural Buffers
 - 3.5.2 Install Perimeter Controls
 - 3.5.3 Minimize Sediment Track-Out
 - 3.5.4 Control Discharges from Stockpiled Sediment or Soil
 - 3.5.5 Discharge of Sediment During Dry Weather
 - 3.5.6 Minimize Disturbance of Steep Slopes
 - 3.5.7 Minimize Soil Compaction and Preserve Topsoil
 - 3.5.8 Storm Drain Inlet Protection
 - 3.5.9 Preserve Natural Vegetation

- Part 3.6 Site Stabilization Requirements, Schedules, and Deadlines
 - 3.6.2 Temporary Stabilization

- 3.6.3 Final Stabilization
- Part 3.7 Pollution Prevention Requirements
 - 3.7.2 Minimize Discharge of Pollutants
 - 3.7.3 Building Materials, Chemicals, Products and Waste
- Part 3.8 Dewatering Practices
 - 3.8.1 Accumulated Stormwater
 - 3.8.2 Allowable DeMinimis Discharges
- Part 3.9 Water Quality Standards

Sediment Basins

Language that meets the requirements of the C&D rule and clarifies the current requirements has been added to Part 4.2. The additional requirements and clarification for sediment basins follows:

- 4.2.1 If sediment basins are installed the operator shall comply with the following design and maintenance requirements:*
- 4.2.1.1 Provide storage for either the calculated volume of runoff from a 2-year, 24-hour storm event for each disturbed acre drained, or 3600 cubic feet per acre drained;*
 - 4.2.1.2 When discharging from the sediment basin, utilize outlet structures that withdraw water from the surface in order to minimize the discharge of pollutants, unless infeasible. If it is determined to be infeasible, support documentation shall be provided in the SWPPP.*
 - 4.2.1.3 Prevent erosion of (1) the sediment basin using stabilization controls (e.g., rip-rap or erosion control blankets), and (2) the inlet and outlet using erosion controls and velocity dissipation devices;*
 - 4.2.1.4 Sediment basins shall be situated outside of surface waters and any natural buffers established under Part 3.5.1; and*
 - 4.2.1.5 Basins shall be maintained in effective operating condition and removal of accumulated sediment shall be conducted when design capacity has been reduced by 50%.*

Reduced Inspection Schedule

NDEP is expanding the current reduced inspection requirements. Currently a reduced inspection schedule is only provided for snow covered or frozen ground. The new language will allow for a reduced inspection schedule for sites that meet certain land disturbance activities and stabilization. The new language follows as such:

5.3.1 *The operator may reduce inspection frequency if the following conditions are met:*

- 5.3.1.1 *Land disturbance activities have been suspended and discharges are unlikely based on seasonal rainfall patterns; and*
- 5.3.1.2 *The disturbed areas of the site have been temporarily stabilized as described in Part 3.6.2; or*
- 5.3.1.3 *Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice; or frozen ground exists).*

5.3.2 *During a reduced inspection schedule, the operator shall inspect the site at least once every 30 days and within 24 hours of the end of each storm event of 0.5 inch or greater during a 24 hour period. The reduced schedule shall be documented in the SWPPP and the beginning and ending dates of the period noted.*

5.3.3 *For sites where snow cover or frozen ground exists, the site shall be waived from inspection requirements until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:*

- 5.3.3.1 *The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., greater than 30 days);*
- 5.3.3.2 *Land disturbance activities have been suspended; and*
- 5.3.3.3 *The beginning and ending dates of the reduced inspection schedule are documented in the SWPPP.*

SWPPP Contents

Language in Part 6.2 has been revised and expanded to provide clarification for requirements to SWPPP development and management. Significant changes to this part are detailed below.

6.2.2 Stormwater Team

Developing a SWPPP requires that a qualified individual or team of individuals be identified as responsible for developing and revising the site's SWPPP. NDEP is adding to the 2014 CGP the requirement to establish a "Stormwater Team" to oversee development and any modifications to the SWPPP, and to ensure compliance with this permit. Stormwater Team is defined in Appendix A as follows:

"Stormwater Team - refers to an individual or group of individuals responsible for oversight of the development and modification of the SWPPP, and oversight of compliance with the permit requirements."

6.2.10 Spill Prevention and Response Procedures

This Part has been added to the permit to address the requirements of the C&D rule indicating that the SWPPP "shall describe procedures to prevent and respond to spills, leaks, and other releases including:

- 6.2.10.1 *Procedures for plainly labeling containers (e.g., “Used Oil”, “Pesticides”, etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response as spills or leaks occur;*
- 6.2.10.2 *Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;*
- 6.2.10.3 *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*
- 6.2.10.4 *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 established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information shall be in locations that are readily accessible and available;*
- 6.2.10.5 *The operator may reference the existence of other plans, such as the 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 NDEP permits for the construction activity, provided that a copy of that other plan is kept with the SWPPP onsite. If an SPCC or other spill prevention plan already exists, the operator may use such plans and incorporate them by reference in the SWPPP.*

General Permit Conditions

Part 7.0 has been expanded to be consistent with the *General Permit Conditions* language now standardized in all newly issued permits from NDEP’s Bureau of Water Pollution Control permits.

Definitions

Part 8.0 has been expanded and clarified to ensure Permittee understanding of terms used in the permit.

Incorporation of these additional requirements is consistent with Nevada’s requirements for its other General Permits for Stormwater Discharges.

III. Permit Coverage and Authorization Under NDEP’s 2014 CGP

Part 1 and Part 2 of the CGP detail the requirements that must be met to obtain coverage under the permit. Although these sections have been restructured from previous permits, many of the requirements for coverage and the process to apply for coverage remain unchanged.

Existing Discharger - For operators of construction projects ongoing as of the effective date of this permit who received authorization to discharge for these projects under the expired 2007

Construction General Permit (NVR100000), the Operator shall submit a Renewal NOI within 60 days of the effective date of this permit. NDEP will determine if the NOI is complete and confirm coverage by providing a Renewal Approval Letter. Following receipt of the renewal approval letter the operator shall comply with the following terms:

- Within 120 days of the effective date of this permit, the Permittee shall update the SWPPP as necessary to comply with the requirements of Part 6.0 of this permit.
- The Permittee shall continue to comply with the terms and conditions of the expired 2007 Construction General Permit NVR100000 until the SWPPP is updated.

New Dischargers seeking authorization for stormwater discharges under this general permit shall submit a NOI and filing fee with NDEP no later than 14 days prior to the start of the permitted activity. Following receipt of the NOI Certification Page and applicable Application Fee, NDEP will determine if the NOI is complete and confirm coverage by providing an Approval Letter with a site authorization number. If NDEP determines the NOI is incomplete, coverage may not be “approved” until a completed NOI is submitted. NDEP will notify an applicant of an incomplete application within 7 days of receipt of the NOI Certification Page in the Bureau of Water Pollution Control.

IV. Permit Area

This general permit covers the State of Nevada except for Tribal Lands. EPA Region 9 is the permitting authority for stormwater discharges on Tribal Lands.

V. Permit Requirements

This permit is in response to requirements of the Federal Clean Water Act and implementing federal regulations, and is based on installing and maintaining BMPs. This permit is a continuation of a program begun in 1993 under the first general permit, GNV0022241 and continued with the previous general permit NVR100000. This general permit is applicable to projects involving disturbance of one or more acres, except in special circumstances where a stormwater permit may be required for construction sites disturbing less than one acre with the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to Waters of the United States.

VI. Rationale for Permit Requirements

The conditions set in the 2014 CGP language are the minimum requirements to maintain and implement an effective stormwater program consistent with U.S. EPA rules (Title 40 of the Code of Federal Regulations Part 122).

VII. Proposed Determination

The Division has made the tentative determination to renew permit NVR300000 for a period of five (5) years.

VIII. Procedures for Public Comment

The Notice of the Division's intent to renew the modified discharge permit subject to the conditions contained within the permit is being sent to the **Las Vegas Review Journal, Reno Gazette, Nevada Appeal and Elko Daily Free Press**, for publication. The notice is being mailed to interested persons on our mailing list. Anyone wishing to comment on the proposed permit can do so in writing for a period of thirty (30) days following the date of publication of the public notice in the newspaper. The comment period can be extended at the discretion of the Administrator. The deadline date and time by which all comments are to be submitted (via postmarked mail or time-stamped faxes, e-mails, or hand-delivered items) to the Division **December 1, 2014 by 5:00 P.M.**

A public hearing on the proposed determination can be requested by the applicant, any affected State, any affected interstate agency, the Regional Administrator or any interested agency, person or group of persons.

The request must be filed within the comment period and must indicate the interest of the person filing the request and the reasons why a hearing is warranted.

Any public hearing determined by the Administrator to be held must be conducted in the geographical area of the proposed discharge or any other area the Administrator determines to be appropriate. All public hearings must be conducted in accordance with NAC 445A.238.

The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to NRS 445A.605.

Final Fact Sheet Prepared by: Michele R. Reid
Staff I Associate Engineer
Bureau of Water Pollution Control