



## EPA Proposes Draft General Permit for Stormwater Discharges from Construction Activities

### Summary

The U.S. Environmental Protection Agency (EPA) has issued a proposed new National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities. The Agency is seeking public comment on the proposed general permit for 60 days following the publication of the *Federal Register* notice.

### Background

Construction sites disturbing one or more acres of land or smaller sites that are part of a common plan of development or sale are required to obtain NPDES permit coverage for their stormwater discharges. Since 1992, EPA has issued a series of Construction General Permits (CGP's) that provide permit coverage in states where EPA is the permitting authority. At present, EPA is the permitting authority in four states (i.e., Idaho, Massachusetts, New Hampshire, and New Mexico); the District of Columbia; Puerto Rico; all other U.S. territories, with the exception of the U.S. Virgin Islands; federal facilities in four states (i.e., Colorado, Delaware, Vermont, and Washington); and most Indian lands and for a few other specifically designated activities in specific states.

EPA has extended the expiration of the 2008 CGP until February 15, 2012 in order to provide the Agency with sufficient time to finalize the new permit. Prior to the expiration of the 2008 CGP, EPA will finalize the new CGP which will

provide coverage for eligible new and existing construction projects for a period of five years. The new CGP will include a number of modifications from its predecessor, many of which are necessary to implement the new Effluent Limitations Guidelines (ELGs) for the Construction and Development (C&D) point source category.

### C&D Rule Effluent Limitations Guidelines

EPA finalized the Effluent Limitations Guidelines and New Source Performance Standards for the construction and development industry (i.e., C&D rule) on December 1, 2009. The C&D rule became effective on February 1, 2010; after which all NPDES construction stormwater permits are required to incorporate the C&D rule requirements once their current permit expires.

The requirements in the C&D rule include a suite of non-numeric effluent limitations that apply to all permitted construction sites. (See 40 CFR 450.21.) The non-numeric effluent limits

include requirements for:

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

The C&D rule also included a numeric limit for turbidity. However, EPA discovered after promulgation that the data used to calculate the numeric limit was misinterpreted. The Agency has issued a stay for the numeric limit for turbidity so that the limit can be recalculated.

EPA's proposed CGP includes language that implements the C&D rule's non-numeric limits and includes a placeholder for the recalculated numeric turbidity limit. It also includes corresponding permit requirements for monitoring, reporting, and the acreage threshold. If EPA promulgates a recalculated numeric turbidity limit before the new CGP is finalized, EPA plans to include the revised limit and associated monitoring requirements in the finalized CGP.

### **Summary of Proposed CGP**

The proposed CGP includes a number of new provisions relating not only to the C&D rule effluent limits, but also to provide enhanced protections for impaired or other sensitive waters. In addition, the proposed permit has been modified from the existing 2008 permit to improve its readability, clarity, and enforceability. Some of the significant proposed permit modifications in the proposed CGP include new

requirements for:

- Eligibility for emergency-related construction;
- Required use of the electronic Notice of Intent process;
- Sediment and erosion controls;
- Natural buffers or alternative controls;
- Soil stabilization;
- Pollution prevention;
- Site inspections;
- Stormwater Pollution Prevention Plans; and
- Permit termination.

### **How to Comment**

EPA will accept comment on the proposed permit for 60 days after publication in the *Federal Register*. Comments, identified by Docket ID No. EPA-HQ-OW-2010-0782, may be submitted by one of the following methods:

1. *Online at*  
<http://www.regulations.gov>:  
Follow the online instructions for submitting comments.
2. *E-mail:* [ow-docket@epa.gov](mailto:ow-docket@epa.gov)
3. *Mail to:* Water Docket, U.S. Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention: Docket ID No. EPA-HQ-OW-2010-0782. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**For further information about this notice, please write to:**

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For additional information on the CGP or to view or download the complete text of the *Federal Register* notice, please visit: <http://www.epa.gov/npdes/stormwater/cgp>