

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

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, operators of construction activities that are described in Parts 1.1 and 1.2 and meeting the requirements of Part 1.3 of this National Pollutant Discharge Elimination System (NPDES) general permit, except for those activities excluded from authorization of discharge in Part 1.4.2 of this permit, are authorized to discharge pollutants to waters of the United States in accordance with the effluent limitations and conditions set forth herein. Permit coverage is required from the commencement of "earth-disturbing activities" until "final stabilization" as required in Part 2.2.

This permit becomes effective on **[insert date of FR publication]**.

This permit and the authorization to discharge expire at midnight, **[insert date 5 years from date of FR publication]**.

Signed and issued this day of ,
2011
Name
Title, Region 1

Signed and issued this day of ,
2011
Name
Title, Region 4

Signed and issued this day of ,
2011
Name
Title, Region 2

Signed and issued this day of ,
2011
Name
Title, Region 5

Signed and issued this day of ,
2011
Name
Title, Region 2, Caribbean Office

Signed and issued this day of ,
2011
Name
Title, Region 6

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2011
Name
Title, Region 3

Signed and issued this day of ,
2011
Name
Title, Region 7

Proposed Construction General Permit (CGP)

Signed and issued this day of ,
2011

Name

Title, Region 8

Signed and issued this day of ,
2011

Name

Title, Region 10

Signed and issued this day of ,
2011

Name

Title, Region 9

The signatures are for the permit conditions in Parts 1 through 10 and Appendices A through M, and for any additional conditions that apply to facilities located in the corresponding State, Indian Country lands, or other areas.

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1. HOW TO OBTAIN PERMIT COVERAGE UNDER THE CGP

1.1. APPLICABILITY OF THIS PERMIT.

You may submit a Notice of Intent (NOI) to be covered by this permit if you are an “operator” of a construction project that:

- will disturb 1 or more acres of land, or will disturb less than one acre, but is part of a common plan of development or sale that will ultimately disturb one acre or more; and
- is located in an area where EPA is the permitting authority. For a list of such areas, see Appendix B. See 40 CFR 122.26(b)(14)(x) and (15).

You may qualify for a waiver from NPDES permit requirements under which stormwater discharges associated with construction activities are not required to be covered by a permit. Details of the waiver options and procedures for requesting a waiver are provided in Appendix C.

1.2. PERSON(S) RESPONSIBLE FOR OBTAINING PERMIT COVERAGE.

You are required to obtain NPDES permit coverage for stormwater discharges from a construction project described in Part 1.1 if you are an “operator”, as defined below.

For the purposes of this permit, an “operator” is 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 (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

Where there are multiple operators associated with the same project, all operators are required to obtain permit coverage. Once covered by a permit, all such operators are to be considered as co-permittees if their involvement in the construction activities affects the same project site, and are held jointly and severally responsible for complying with the permit. Where there are multiple operators associated with the same project, the following definitions apply to the different types of operators that may be covered by this permit:

Primary operator – for a construction project that has more than one operator, an operator who has received coverage under this permit for discharges from all earth-disturbing activities at a construction site.

Secondary operator – for a construction project that has more than one operator, an operator who seeks permit coverage under this permit for discharges from earth-disturbing activities on all or a portion of a site that has already received permit coverage under this permit for a primary operator. All areas of the site from which discharges result from the secondary operator’s earth-disturbing activities must have already received permit coverage before the operator can be treated as a secondary operator under this section.

1.3. ELIGIBILITY CONDITIONS.

1.3.1. Eligibility Conditions for All Projects.

In order to determine if you are eligible for permit coverage, you must first determine that your construction project meets all of the following eligibility conditions:

- 1.3.1.1 You are an operator of a construction project;
- 1.3.1.2 Your project will disturb 1 or more acres of land, or will disturb less than 1 acre but is part of a common plan of development or sale that will ultimately disturb 1 or more acres;
- 1.3.1.3 Your project is located in an area where EPA is the permitting authority. For a list of such areas, see Appendix B;
- 1.3.1.4 Your project is not:
 - a. Already covered by another NPDES stormwater permit for the same discharge, except where a site requires permit coverage under this permit and a state construction stormwater permit because earth-disturbing activities will take place in areas covered by both permits;
 - b. In the process of having coverage under another NPDES stormwater permit denied, terminated, or revoked; or
 - c. Covered by another NPDES stormwater permit in the past five (5) years where that permit established site-specific water quality-based effluent limits developed for the stormwater component of the discharge.

Note: If you do not meet a, b, or c, above, but EPA has specifically authorized you in writing to submit a Notice of Intent (NOI) for coverage under this permit, you may still be eligible for coverage.

- 1.3.1.5 You are able to demonstrate that you meet one of the criteria listed in Appendix D with respect to the protection of any species that are federally-listed as endangered or threatened under the Endangered Species Act (ESA) or of habitat that is federally-designated as "critical habitat" under the ESA;
- 1.3.1.6 You have determined that discharges from your site will not adversely affect historic properties. To do this, you must meet one of the criteria listed in Appendix E, following the procedures set forth in that appendix;
- 1.3.1.7 You have already obtained any necessary CWA Part 404 dredge and fill permit(s) for any disturbances (e.g., stream crossings, infrastructure work, stream restoration) to waters of the U.S., including wetlands, associated with your construction project; and
- 1.3.1.8 You have complied with any specific requirements for your construction project respecting your eligibility imposed by the state, Indian tribe, or territory listed in Part 10 of this permit.

You must also satisfy, if applicable, the conditions in Parts 1.3.2 through 1.3.4 in order to obtain coverage under this permit.

1.3.2. Eligibility for Emergency-Related Construction Activities

If you are conducting earth-disturbing activities in response to a public emergency (e.g., tornado, hurricane, earth quake, flood), and the related work requires immediate

authorization to avoid imminent endangerment to human health or the environment, you are authorized to discharge on the condition that a complete and accurate NOI is submitted within 7 days of commencing earth-disturbing activities (see Part 1.5.3.6) establishing that you are eligible under this permit and you comply with all relevant requirements in the permit regarding discharges associated with your construction activities.

1.3.3. Water Quality Standards – Eligibility for New Sources and Existing Unpermitted Dischargers.

If you are a “new source” or “existing unpermitted discharger” (see Parts 1.5.3.1 and 1.5.3.4), you are not eligible for coverage under the permit for discharges that EPA, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify you that an individual permit application is necessary in accordance with Part 1.5.6. 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 water quality standards.

1.3.4. Eligibility for New Sources and Existing Unpermitted Dischargers Discharging to Waters with High Water Quality.

Your project will be considered to discharge to a water identified by a state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes if the first water of the U.S. to which you discharge is identified by a state 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.

If you are a new source or existing unpermitted discharger, you are eligible to discharge to a Tier 2, Tier 2.5, or Tier 3 water only if your discharge will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, EPA expects that compliance with the stormwater control requirements of this permit, including the requirements applicable to such discharges in Part 4.3.2, will result in discharges that will not lower the water quality of the applicable water.

See list of Tier 2, Tier 2.5, and Tier 3 waters in Appendix F.

1.4. TYPES OF DISCHARGES AUTHORIZED UNDER THE CGP.

1.4.1. List of Allowable Discharges.

The following is a list of discharges that are allowed under the permit provided that all applicable permit limits and conditions are met:

- 1.4.1.1 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);
- 1.4.1.2 Stormwater discharges designated by EPA as needing a permit under 40 CFR § 122.26(a)(1)(v) or § 122.26(b)(15)(ii);
- 1.4.1.3 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:

- a. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges;
 - b. The support activity is not a commercial operation serving multiple unrelated construction projects;
 - c. The support activity does not continue to operate beyond the completion of the construction activity at the project it supports; and
 - d. Appropriate control measures are identified in the SWPPP covering the discharges from the support activity areas.
- 1.4.1.4 Non-stormwater discharges from your construction activity, including:
- a. Discharges from emergency fire-fighting activities;
 - b. Fire hydrant flushings;
 - c. Water used to wash vehicles where soaps, solvents, or detergents are not used;
 - d. Water used to control dust;
 - e. Potable water including uncontaminated water line flushings, provided the water line flushings are directed towards appropriate stormwater controls to remove sediment prior to discharge;
 - f. Routine external building wash down that does not use detergents;
 - g. Pavement wash waters provided spills or leaks of toxic or hazardous material have not occurred (unless all spill material has been removed) and where detergents are not used, provided these waters are directed towards the appropriate stormwater control to remove sediment prior to discharge;
 - h. Uncontaminated air conditioning or compressor condensate;
 - i. Uncontaminated, non-turbid discharges of groundwater or spring water;
 - j. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated groundwater; and
 - k. Uncontaminated construction dewatering wastewaters that have been treated by an appropriate control under Part 2.1.4.6. Wastewaters that have been treated in accordance with Part 2.1.4.6, but still contain trace amounts of sediment, are not considered contaminated; and
- 1.4.1.5 Discharges of stormwater listed above in Parts 1.4.1.1, 1.4.1.2, and 1.4.1.3, or authorized non-stormwater discharges in Part 1.4.1.4 above commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

1.4.2. List of Discharges Not Addressed by this Permit.

The following is a list of discharges that are not addressed under this permit because they are either covered by another permit or they are not within the scope of designated discharges requiring NPDES permit coverage:

- 1.4.2.1 Discharges mixed with non-stormwater discharges, unless they are listed as allowable non-stormwater discharges in Part 1.4.1, above;

- 1.4.2.2 Discharges of fill or dredged material regulated by Part 404 of the CWA;
- 1.4.2.3 Stormwater discharges associated with construction activities that have been covered under an individual NPDES permit or a different NPDES general permit, unless authorized in writing by EPA; and
- 1.4.2.4 Stormwater and/or allowable non-stormwater discharges associated with construction activities that are discharged to a combined sewer system.

1.5. SUBMITTING YOUR NOTICE OF INTENT (NOI).

To be covered under this permit, you must submit to EPA a complete and accurate NOI prior to commencing construction activities, except for emergency-related construction activities, in which case the NOI must be submitted within 7 days after the commencement of earth-disturbing activities (see Part 1.3.2). The NOI certifies to EPA that you are eligible for coverage according to Part 1.3 and provides information on your construction operation and discharge. Note that there are actions, such as the completion of a Stormwater Pollution Prevention Plan (SWPPP), which must be completed prior to submitting your NOI for coverage under this permit.

You are not authorized to discharge if your NOI is incomplete or inaccurate, or if you are not eligible for permit coverage.

1.5.1. Information Required in Your NOI.

You are required to provide the following in your NOI:

- NPDES permit number (see Appendix B);
- Operator information;
- Project/site information;
- Receiving water quality information, including whether you discharge to an impaired water (as defined in Part 4.2), or a water identified as Tier 2 or Tier 2.5 or Tier 3;
- Buffer information;
- Chemical treatment information, if applicable;
- SWPPP information;
- Threatened and endangered species information;
- Historic property information;
- Certification of NOI; and
- Contact information for NOI preparer.

1.5.2. How to Submit Your NOI.

You are required to use EPA's electronic NOI system, or "eNOI system", to prepare and submit your NOI, unless your relevant EPA Regional Office specifically authorizes your use of a paper NOI. The electronic NOI form you are required to complete is found at www.epa.gov/npdes/eNOI.

Request for Comment: It is EPA's strong preference to require all construction operators to use the eNOI system in the interest of developing a "paperless" application process and of minimizing the administrative cost of continuing to process paper NOIs. Nevertheless, EPA is

aware that the permitting program is still in the process of making the transition to a paperless process, and therefore has preserved in the proposed permit the ability to accept paper NOIs in limited circumstances, where the relevant Regional Office authorizes their use. EPA requests comments on the proposed requirement in the CGP to require the use of the eNOI except where a paper NOI is specifically authorized. EPA also requests comments on the experiences construction operators have had in using the existing eNOI system, recommendations for improving the system, and recommendations on the specific circumstances under which paper NOIs should still be accepted.

1.5.3. Deadlines for Submitting Your NOI.

Table 1-1 provides the deadlines for submitting your complete and accurate NOI. The deadlines vary depending on whether you are a “new source”, a “previously permitted new source”, an “existing permitted discharger”, an “existing unpermitted discharger”, or a “new operator of a new source or existing permitted discharger”, or whether your activity is considered an “emergency-related project.” The following definitions apply to the different types of construction activities and construction operators:

- 1.5.3.1 New source – a construction project that commences construction activities after February 1, 2010, and that requires NPDES permit coverage for its construction discharges under Part 1.1.
- 1.5.3.2 Previously permitted new source – a construction project that commenced construction activities after February 1, 2010, but that already received prior coverage for its construction discharges under an effective NPDES permit, such as the 2003 CGP or 2008 CGP.
- 1.5.3.3 Existing permitted discharger - a construction project that is not a new source, because construction activities commenced prior to February 1, 2010, and that received prior coverage for its construction discharges under an effective NPDES permit, such as the 2003 CGP or 2008 CGP.
- 1.5.3.4 Existing unpermitted discharger – a construction project that is not a new source, because construction activities commenced prior to February 1, 2010, but has never received coverage for its construction discharges under an effective NPDES permit.
- 1.5.3.5 New operator of a new source or existing permitted discharger – an operator that replaces an existing operator on a construction project through transfer of ownership and/or operation.
- 1.5.3.6 Emergency-related project – a construction project in which earth-disturbing activities require immediate authorization in response to a public emergency.
- 1.5.3.7 Primary operator – for a construction project that has more than one operator, an operator who has received coverage under this permit for discharges from all earth-disturbing activities at a construction site.
- 1.5.3.8 Secondary operator – for a construction project that has more than one operator, an operator who seeks permit coverage under this permit for discharges from earth-disturbing activities on all or a portion of a site that has already received permit coverage under this permit for a primary operator. All areas of the site from which discharges occur resulting from the secondary operator’s earth-disturbing activities must have already received permit coverage before the operator can be treated as a secondary operator under this section.

See Table 1-1 for a list of applicable deadlines.

If you have missed the deadline to submit your NOI, you are required to submit your NOI immediately to minimize the time discharges from the project are unauthorized. EPA reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance that occurs between the commencement of earth-disturbing activities and discharge authorization.

Table 1-1 NOI Submittal Deadlines.

Type of Construction Project	Deadlines for Operators to Submit NOI
New source	Except for secondary operators, at least 30 days prior to commencing earth-disturbing activities. For secondary operators, at least 7 days prior to commencing earth-disturbing activities.
Previously permitted new source	By no later than [90 DAYS AFTER PERMIT ISSUANCE], if earth-disturbing activities commenced after February 1, 2010 and prior to [DATE OF PERMIT ISSUANCE], and the operator is currently covered under the 2003 or 2008 CGPs. Provided you submit your NOI by this deadline, your coverage under the 2003 or 2008 CGP will be automatically continued under those permits until you have been granted coverage under this permit or an alternative NPDES permit, or you are denied coverage under this permit.
Existing permitted discharger	By no later than [90 DAYS AFTER PERMIT ISSUANCE]. Provided you submit your NOI by this deadline, your coverage under the 2003 or 2008 CGP will be automatically continued under those permits until you have been granted coverage under this permit or an alternative NPDES permit, or you are denied coverage under this permit.
Existing unpermitted discharger	Immediately.
New operator of a new source or existing permitted discharger	A minimum of 7 days prior to the date that the transfer to the new operator will take place.
Emergency-related project	Within 7 days after commencing earth-disturbing activities.

1.5.4. Your Official Start and End Dates for Permit Coverage.

Following your submittal of a complete and accurate NOI consistent with this Part, unless you are a secondary operators, new operators of a new source or existing permitted discharger, and operators of emergency-related projects, you are considered covered under the terms and conditions of this permit 30 calendar days after EPA acknowledges receipt of your NOI through posted information on EPA's website (www.epa.gov/npdes/stormwater/noisearch), unless EPA notifies you that your authorization has been delayed or denied.

For secondary operators and new operators of a new source or existing permitted discharger, following your submittal of a complete and accurate NOI consistent with this Part, you are considered covered under the terms and conditions of this permit 7 calendar days after EPA acknowledges receipt of your NOI through posted information on EPA's website (www.epa.gov/npdes/stormwater/noisearch), unless EPA notifies you that your authorization has been delayed or denied.

For operators of emergency-related projects, you are considered provisionally covered under the terms and conditions of this permit immediately, and unprovisionally covered 30 calendar days after EPA acknowledges receipt of your NOI through posted information on EPA's website (www.epa.gov/npdes/stormwater/noisearch), unless EPA notifies you that your authorization has been delayed or denied.

If your relevant EPA Regional Office authorizes your use of the paper NOI, the 30-day period, or whichever waiting period applies, that precedes your permit coverage is the same as above; however this period commences only after the NOI Processing Center completes manual entry of your paper NOI information into the eNOI system. Note that if your paper NOI contains errors or is incomplete this will result in delaying the commencement of the waiting period.

If covered under the CGP, your permit coverage will last until the date that:

- You terminate permit coverage consistent with Part 9; or
- Your project receives coverage under a different NPDES permit after being notified by EPA of your need to apply for coverage under an individual or different NPDES general permit; or
- Your project is still active, but the date for this permit's expiration has passed, and a replacement permit has been issued.

1.5.5. Continuation of Coverage for Existing Permittees if the Permit Expires.

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

- Your authorization for coverage under a reissuance or replacement of this permit following your timely submittal of a complete and accurate NOI requesting coverage under the new permit; or
- Your submittal of a Notice of Termination; or
- Issuance or denial of an individual permit for the project's discharges; or
- A final permit decision by EPA not to reissue a general permit, at which time EPA will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

EPA reserves the right to modify or revoke and reissue this permit under 40 CFR 122.62 and 63, in which case you will be notified of any relevant changes or procedures to which you may be subject.

1.5.6. Procedures for Denial of Coverage.

Following your submittal of a complete and accurate NOI, you may be notified by EPA that you are not covered, and that you must either apply for and/or obtain coverage under an individual NPDES permit or an alternate general NPDES permit. This notification will include a brief statement of the reasons for this decision and will provide application information. Any interested person may request that EPA consider requiring an individual permit under this paragraph. If EPA requires you to apply for an individual NPDES permit or alternate general NPDES permit, EPA will notify you in writing that an alternative permit application is required.

If you are already a permittee with coverage under this permit, the notice will set a deadline to file the permit application, and will include a statement that on the effective date of the individual NPDES permit or alternate general NPDES permit, as it applies to you, coverage under this general permit will terminate. EPA may grant additional time to submit the application if you request it. If you are covered under this permit and fail to submit an individual NPDES permit application or an NOI for an alternate general NPDES permit as required by EPA, then the applicability of this permit to you is terminated at the end of the day specified by EPA as the deadline for application submittal. EPA may take appropriate enforcement action for any unpermitted discharge. When an individual NPDES permit is issued to you or you are provided with coverage under an alternate general NPDES permit, your coverage under this permit is terminated on the effective date of the individual permit or date of coverage under the alternate general permit.

1.6. REQUIREMENT TO POST A NOTICE OF YOUR PERMIT COVERAGE.

You must post a sign or other notice conspicuously near the main entrance of the construction site, which at a minimum, must include the NPDES Permit tracking number and a contact phone number for obtaining permit information, such as the SWPPP. The notice must be located so that it is visible from a 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.

2. EFFLUENT LIMITATIONS APPLICABLE TO ALL DISCHARGES FROM CONSTRUCTION SITES

You are required to comply with the stormwater control requirements included in Part 2. Part 2 includes requirements in the following areas:

- Erosion and sediment control (Part 2.1)
- Site stabilization (Part 2.2)
- Pollution prevention (Part 2.3)

The stormwater control requirements in this Part are the technology-based, effluent limitations that apply to all discharges from construction sites eligible for coverage under this permit. These requirements apply the national effluent limitations guidelines and new source performance standards found at 40 CFR Part 450.

The requirements in Part 2 apply in addition to any applicable state or local requirements, regardless of whether they are more or less stringent.

2.1. EROSION AND SEDIMENT CONTROL REQUIREMENTS.

You are required to minimize the discharge of pollutants from your site. To meet this requirement, you must comply with the requirements in this Part. Each subpart includes requirements that apply to the following distinct phases of construction activity:

- Site planning
- Designing, installing, and maintaining stormwater controls

REQUIREMENTS FOR SITE PLANNING:

You must comply with the following site planning requirements in order to minimize the discharge of pollutants from the site:

2.1.1. Avoid Sensitive Areas.

- 2.1.1.1 **Mark off any sensitive areas.** You must delineate, and clearly mark off, with flags, tape, or other similar marking device, the following areas of your construction site:
- a. All buffer areas established under Part 2.1.2;
 - b. All steep slopes that will be left undisturbed, consistent with Part 2.1.1.2;
 - c. Any points where a water of the U.S. will be crossed;
 - d. Any areas of federally-listed critical habitat for endangered or threatened species on areas of the property that may be impacted by the discharge; and
 - e. Any historic properties on areas of the property that may be impacted by the discharge.
 - f. All marking devices should be removed after construction has been completed, after all areas that were disturbed have been stabilized, and once the site meets the criteria for terminating permit coverage in Part 9.2.
- 2.1.1.2 **Avoid steep slopes.** Avoid earth-disturbing activities on steep slopes (i.e., slopes of 15% or greater), unless infeasible or inconsistent with the

requirements of the project. Where avoiding disturbance to such areas is infeasible, you must comply with the design requirements in Part 2.1.4.2.

- 2.1.1.3 **Minimize stream crossings.** Limit construction of stream crossings on your site to the minimum necessary to provide access to your construction site, and to install required infrastructure. Where stream crossings are required for your project, you must comply with any limits to such activity covered by a CWA Part 404 permit. Note that the CWA Part 404 permit must have been obtained prior to any discharge of dredge or fill materials to waters of the U.S.

2.1.2. Protection of Surface Waters: Natural Buffers and Equivalent Sediment Controls.

In order to minimize sediment discharges, if any waters of the U.S. are located on or immediately adjacent to your site, you must ensure that any discharges through the area between the disturbed portions of your site and such waters are treated by an area of undisturbed natural vegetation that alone or with additional sediment and erosion controls achieves a reduction in sediment load equivalent to that achieved by a 50-foot buffer of undisturbed natural vegetation. Refer to Appendix M (Buffer Guidance) for information to assist you in complying with this requirement.

- 2.1.2.1 **Compliance Alternatives.** You may choose to comply with this requirement in one of the following ways:

- a. Provide and maintain a 50-foot buffer of undisturbed natural vegetation between the disturbed portions of your site and the waters of the U.S.; or
- b. Provide an undisturbed naturally vegetated buffer that is less than 50 feet between the disturbed portions of your site and the waters of the U.S. that is supplemented by additional sediment and erosion controls, which in combination achieves the equivalent sediment load reduction as a 50-foot buffer of undisturbed natural vegetation. Appendix M provides the sediment load reduction that you are required to meet; or
- c. If it is infeasible to provide an undisturbed naturally vegetated buffer of any size between the disturbed portion of your site and the waters of the U.S., implement sediment and erosion controls that achieve the equivalent sediment load reduction as an undisturbed naturally vegetated, 50-foot buffer. Appendix M provides the sediment load reduction that you are required to meet.

The compliance alternative selected above must be maintained throughout the duration of permit coverage. If you choose compliance alternative a or b above, throughout your period of coverage under this permit you must keep the buffer naturally vegetated and no construction activities may be conducted in this area. All discharges through the buffer must be non-channelized or non-concentrated, and must first be treated by the site's sediment and erosion controls.

- 2.1.2.2 **Additional Requirements for Compliance Alternatives in Parts 2.1.2.1b and 2.1.2.1c.** If you choose either of the compliance alternatives in Parts 2.1.2.1b or 2.1.2.1c, you must comply with the following:

- a. **Documentation.** Document in your SWPPP the following:
 - i. If the buffer is less than 50 feet, the width of the buffer vegetation to be retained; and

- ii. Information you relied on to comply with the requirement to achieve the equivalent sediment load reduction as an undisturbed naturally vegetated 50-foot buffer.

Note that you are required to provide this information in your NOI.

- b. **Stabilization Requirements.** For any disturbances within the 50-foot buffer area, you must comply with the following stabilization requirements, which replace the corresponding requirements in Part 2.2.1:
 - i. You must immediately initiate stabilization in any exposed areas of the buffer where earth-disturbing activities have permanently or temporarily ceased, and will not resume for a period exceeding 7 calendar days. For the purposes of this permit, earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of your construction site will not resume for a period of 7 or more days, and earth-disturbing activities have permanently ceased when clearing and excavation within any area of your construction site has been completed, and final grade has been reached.
 - ii. Within 3 work days of initiating stabilization, you are required to have completed:
 - (1) For vegetative cover, all soil conditioning, seeding, watering, mulching, and any other required activities related to the planting and establishment of vegetation; and/or
 - (2) For non-vegetative cover, the installation or application of all non-vegetative measures.

Request for Comment: EPA requests comments on the buffer compliance alternatives in Part 2.1.2.1, and on the guidelines provided in Appendix M. EPA is also interested in comments relating to whether additional flexibility is warranted for small sites that intend to implement the buffer alternative. Please provide specific ideas on what alternative requirements such sites should be subject to that in general achieves the goal of equivalent sediment reduction as the 50-foot buffer. EPA welcomes the submission of performance and cost data for treatment devices that might be implemented under compliance alternatives 2.1.2.1b and 2.1.2.1c.

- 2.1.2.3 **Exceptions.** You are not required to comply with this requirement for the following types of construction projects, provided that you limit the area of disturbance to the minimum needed to complete the construction and to access the site, and that you retain the natural vegetation in the buffer outside this area:
 - a. Construction of water crossings authorized under a CWA Part 404 permit (where required) for water lines, sewer lines, utility lines, and roadways;
 - b. Construction of water-dependent structures and water access areas (piers, boat ramps, etc.) approved under a CWA Part 404 permit (where required); or
 - c. Development of a site where no naturally vegetated buffer area exists due to prior disturbances.
- 2.1.2.4 **State and Local Requirements.** You must meet any local or state requirements affecting construction in the buffer.

REQUIREMENTS FOR DESIGNING, INSTALLING, AND MAINTAINING STORMWATER CONTROLS:

2.1.3. Requirements Applicable to All Construction Sites.

You must design, install, and maintain stormwater erosion and sediment controls that minimize discharges of pollutants from earth-disturbing activities. To meet this requirement, you must comply with the following requirements.

2.1.3.1 General design requirements:

- a. **Required design factors.** Account for the following factors in designing your stormwater controls:
 - i. The expected amount, frequency, intensity, and duration of precipitation;
 - ii. The nature of stormwater runoff at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features; and
 - iii. The soil characteristics at the site. Sediment controls must be designed with consideration of the range of soil particle sizes expected to be present on the site. If fine silts, clay or colloidal soils are present, then the use of enhanced sediment controls such as sand filtration and/or polymers or flocculants may be necessary.

Request for Comment: EPA considered proposing a 2-year, 24-hour design storm standard for stormwater controls, which would need to be met unless it was infeasible to achieve at the particular site. EPA could envision including an additional design requirement in the section above that would require something like the following: *sediment controls must be sized so that they are effective at treating stormwater discharges that result from the local 2-year, 24-hour storm event or smaller.* EPA believes that the inclusion of such a standard would have the benefit of assisting construction operators in the design and selection of controls by introducing a definitive standard by which to assess compliance. For background, the 2-year, 24-hour storm was also used in the 2003 and 2008 CGPs as the sizing criteria for sediment basins. See Section 3.1.A.1 of the 2008 CGP. EPA also adopted the 2-year, 24-hour storm in the C&D rule for the purposes of applying the numeric turbidity limit; where the storm causing a discharge is greater than the 2-year, 24-hour storm, the permittee is not required to comply with the turbidity limit. EPA requests comments on the advisability of adopting a design storm standard, and specifically on whether the 2-year, 24-hour design storm is the appropriate size storm for the design of stormwater controls.

- b. **Control stormwater discharges.** Design stormwater controls to control both peak flowrates and total stormwater volume to minimize erosion at outlets and to minimize downstream channel and streambank erosion;
- c. **Use of vegetated areas for sediment control.** Direct discharges from your stormwater controls to vegetated areas of your site, including any naturally vegetated buffers established under Part 2.1.2.1, unless infeasible. Use level spreaders or other practices to establish a non-concentrated or non-channelized flow of stormwater through such vegetated areas.
- d. **Routing of non-stormwater to sediment controls.** Direct the discharge of any allowed non-stormwater into sediment controls that are or will be installed at your site.

2.1.3.2 **General installation requirements:**

- a. **Install stormwater controls before construction starts.** Prior to commencing earth-disturbing activities in any portion of your site, you must first install and make operational all stormwater controls required in this Part and described in your SWPPP. Note that this requirement does not apply to earth disturbances related to initial site clearing and establishing entry, exit, and access of the site, which may require that stormwater controls be installed immediately after the earth disturbance.

Request for Comment: EPA requests comment on whether there are other situations where it would be infeasible or impractical to install and make operational all stormwater controls before commencing earth disturbances. If so, please describe these situations.

- b. **Install perimeter controls.** You must install stormwater controls along all down slope areas of disturbance at your site, including areas to be used for stockpiling soils removed during construction, and along those side slope boundaries that will receive stormwater flow from disturbed areas of your construction site. All down slope sediment controls should be installed on the level contour of the site, in the flattest area possible, at a distance down slope from the toe of the slope, and with the ends of the control placed up slope from the rest of the control. Note that storm drain inlets that receive stormwater discharges from your construction site are considered part of your site's down slope control area. Examples of down slope controls are filter berms, silt fences, and temporary diversion dikes.
- c. **Use good engineering practices and follow manufacturer's specifications.** You must install all stormwater controls in accordance with standard industry and good engineering practices, including manufacturer's specifications where appropriate.

2.1.3.3 **Maintenance requirements:**

- a. **Keep stormwater controls in effective operating condition.** You must ensure that all stormwater controls remain in effective operating condition and are protected from activities that reduce their effectiveness.
- b. **Remove accumulated sediment.** Remove sediment before it has accumulated to a height of $\frac{1}{2}$ of any exposed silt fence fabric or $\frac{1}{2}$ of the height of any filter berm. Manage removed sediment by spreading evenly over exposed areas of the site that have adequate stormwater controls in place, by utilizing as fill material, by stockpiling and stabilizing, or by disposing with other construction and domestic wastes.
- c. **Take corrective actions.** Take corrective actions required under Part 6 to repair, replace, and/or supplement sediment and erosion controls.

2.1.3.4 **Good housekeeping requirements:**

- a. **Remove deposited sediment.** You must comply with the following requirements:
 - i. Where track-out of sediment occurs at your site onto streets, sidewalks, and other paved areas, by the end of the same work day

in which the track-out is discovered you must sweep, shovel, or vacuum these surfaces to remove track-out material or other sediment deposits.

- ii. Immediately begin to remove sediment that has been deposited in or near any stormwater conveyance channel or storm drain inlet and complete the removal by the close of the next full work day.
 - iii. Manage removed sediment by spreading evenly over exposed areas of the site; utilizing as fill material; stockpiling and stabilizing (note: for sediment or soil piles, you must meet the requirements below in Part 2.1.3.4.b); or disposing of with other construction and domestic waste.
 - iv. Do not wash sediment deposits or other debris, which have accumulated on your site, into stormwater conveyance channels, storm drain inlets, or waters of the U.S., including when cleaning stormwater controls.
- b. **Control discharges from sediment or soil piles.** For any stockpiled or land clearing debris composed, in whole or in part, of sediment or soil, you must:
- i. Locate the piles outside of any buffers established consistent with Part 2.1.2;
 - ii. Protect from contact with stormwater (including run-on) using a temporary perimeter sediment barrier such as berms, dikes, fiber rolls, silt fences, sandbag, gravel bags, or straw bale;
 - iii. Provide cover or other appropriate temporary or permanent stabilization to avoid direct contact with precipitation or to prevent sediment discharge;
 - iv. Do not hose down debris accumulated on pavement or other impervious surfaces;
 - v. To the extent possible, contain and securely protect from wind unless actively being used; and
 - vi. To the extent you are removing native topsoil, comply with the requirements for stockpiling and reapplying such material in Part 2.1.3.5.
- c. **Minimize dust.** In order to avoid pollutants from being discharged into waters of the U.S., you must minimize the generation of dust and off-site tracking through the application of water or other dust suppression techniques.

2.1.3.5 **Use of native topsoil.** Where disturbance to native topsoil will occur at your site, unless infeasible, you should stockpile and reuse it in areas that will be stabilized with vegetation if applicable. To maximize the native topsoil's continued function, when stockpiling native topsoil, you should mound the soil and cover to prevent soil erosion and weed growth. As a guideline, soil should be mounded no higher than 4 feet high for less than 1 year, and preferably for less than 6 months.

- 2.1.3.6 **Minimize soil compaction.** In areas where vegetative stabilization will occur at your site, you should either:
- a. **Restrict vehicle / equipment use.** Restrict vehicle and equipment use in these locations to avoid soil compaction; or
 - b. **Use soil conditioning techniques.** Prior to seeding or planting areas of exposed soil that have been compacted, use techniques that condition the soils to support vegetative growth, if necessary. For example, techniques such as deep-ripping and decompaction or sub-soiling may be used to condition soils, except as otherwise prohibited by state or local regulations, or as otherwise necessary for load-bearing capability.

2.1.3.7 **Entrance and exit points.**

- a. **Stabilize construction entrance and exit points.** You must stabilize all construction entrance and exit points for a minimum of 50 feet from the point of entry/exit so that no soil is left exposed and no sediment is discharged during storm events. Examples of stabilization techniques include use of a 6-inch thick pad of crushed rock, coarse aggregate, or stone (greater than 1.5 inches) with an underlying filter fabric.

Request for Comment: EPA requests comment on the feasibility of the requirement to stabilize entrance and exit points for a minimum of 50 feet. If this distance is not practicable at sites, explain why and what would you suggest as a minimum threshold for stabilizing these areas and for what size sites.

- b. **Eliminate track-out from vehicles.** Prior to vehicle exit, you must wash vehicle tires or provide a similarly effective way of removing sediment from wheels and preventing track-out (e.g. through the use of rumble strips or aggregate stone either alone or in combination with other practices). No visible signs of soil tracking from vehicles should be present on public or private roadways exiting the site.

All track-out controls should be maintained to minimize the potential for accumulated tracked sediment to be discharged in stormwater.

- c. **Wheel washdown requirements.** If you wash vehicle tires before exiting the site:
 - i. Identify and designate wheel washdown areas to be used at your site, and clearly flag off such areas or mark them with signs;
 - ii. Conduct wheel washdown outside of any buffers established consistent with Part 2.1.2;
 - iii. Refrain from the use of soaps and solvents; and
 - iv. Direct wash water into a sediment trap or alternative control that provides equivalent or better treatment prior to discharge.

- 2.1.3.8 **Compliance with Safe Drinking Water Act underground injection control requirements for certain subsurface stormwater controls.** If you are using any of the following stormwater controls at your site, as they are described below, you must comply with any applicable requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR Parts 144 -147:

- a. 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);
- b. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and
- c. 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).

2.1.4. Requirements Applicable to Specific Stormwater Controls.

You are required to comply with the following specific requirements for any of the following stormwater controls installed on your site:

2.1.4.1 **Constructed stormwater conveyance channels:**

- a. **Design channels to avoid disturbed areas and to reduce erosion.** Divert concentrated flows of stormwater running onto the site and within the site to avoid contact with soils exposed during construction, unless infeasible. Prevent erosion of channel embankments, outlets, adjacent streambanks, slopes, and downstream waters during discharge conditions through the use of velocity dissipation devices (e.g., check dams, sediment traps, riprap, or grouted riprap at outlets) within and along the length of any constructed stormwater conveyance channel, and at any outlet to provide a non-erosive flow velocity.
- b. **Stabilize stormwater conveyance channels.** Complete stabilization of stormwater conveyance channels before the first predicted storm event, or within 7 days, whichever is sooner. Examples of vegetative and non-vegetative stabilization techniques include channel liners, rolled erosion control products (e.g., erosion control blankets and turf reinforcement mats), riprap, geotextiles, or other armoring materials that are suitable for use in areas with concentrated or channelized flow. You are prohibited from applying mulch, hydromulch, tackifier, or similar erosion prevention practices that are not suitable for use in areas with concentrated or channelized flow in stormwater conveyance channels.

2.1.4.2 **Steep slope controls:** If the avoidance of disturbances to steep slopes (i.e., slopes of 15% or greater) is infeasible (see Part 2.1.1.2), you must:

- a. **Divert flows around steep slope disturbances.** Divert concentrated or channelized flows of stormwater away from and around areas of disturbance to steep slopes;
- b. **Use specialized controls.** Use specialized erosion and sediment controls for steep slopes, such as temporary and permanent seeding with soil binders, erosion control blankets, surface roughening, reducing continuous slope length with terracing or diversions, gradient terraces, interceptor dikes and swales, grass-lined channels, pipe slope drains, subsurface drains, level spreaders, check dams, seep berms, and triangular silt dikes; and

- c. **Stabilization requirements.** For all disturbances to steep slopes, you must comply with the following stabilization requirements, which replace the corresponding requirements in Part 2.2.1:
 - i. You must immediately initiate stabilization in any exposed steep slope areas where earth-disturbing activities have permanently or temporarily ceased, and will not resume for a period exceeding 7 calendar days. For the purposes of this permit, earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of your construction site will not resume for a period of 7 or more days, and earth-disturbing activities have permanently ceased when clearing and excavation within any area of your construction site has been completed, and final grade has been reached.
 - ii. Within 3 work days of initiating stabilization, you are required to have completed:
 - (1) For vegetative cover, all soil conditioning, seeding, watering, mulching, and any other required activities related to the planting and establishment of vegetation; and/or
 - (2) For non-vegetative cover, the installation or application of all non-vegetative measures.

Note that for all other areas of your site that are disturbed during construction, and that are outside of the steep slope areas, you are subject to the stabilization requirements in Part 2.2.

2.1.4.3 **Storm drain inlet protection:** For any storm drain inlets that are located on your site or that receive stormwater discharges from your site, and for which you have access, you must comply with the following:

- a. **Inlet protection measures.** You must install inlet protection measures that remove sediment from your discharge prior to entry into the storm drain inlets. Examples of inlet protection measures include excavations around the perimeter of the drop inlet, fabric barriers around inlet entrance, block and gravel protection, stone-filled bag berms, and sandbags.
- b. **Maintenance requirements.** Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. The protection measures must be serviced, cleaned, or removed and replaced when sediment has filled to ½ of the capacity of available storage.

2.1.4.4 **Sediment basins and impoundments.**

- a. **Design requirements.** For any sediment basins or impoundments installed at the site, in order to minimize the discharge of pollutants, you must utilize outlet structures that withdraw water from the surface, unless infeasible (e.g., you would not be required to use such an outlet structure for a small sediment trap installed at your site).
- b. **Maintenance requirements.** Remove accumulated sediment before it reaches ½ of the capacity of the sediment basin.

- 2.1.4.5 **Chemical treatment.** If you are using polymers, flocculants, or other treatment chemicals (e.g., chitosan, polyacrylamide (PAM)) to enhance sediment removal, you must:
- a. **Storage requirements.** Store all treatment chemicals in leak-proof containers that are kept under storm-resistant cover or surrounded by secondary containment structures designed to eliminate potential discharge of stormwater from this area.
 - b. **Manufacturer/vendor specifications.** Use treatment chemicals in accordance with dosing specifications and application rates provided by the manufacturer or supplier, or document departures from the manufacturer specifications where appropriate.
 - c. **Use restrictions.**
 - i. Do not apply within areas established under Part 2.1.2;
 - ii. Do not apply in areas with a shallow water table (i.e., 4 feet or less);
 - iii. Limit any use of sediment containing polyacrylamide, chitosan, and other bio-polymers as fill material on-site to not closer than 100 feet from waters of the U.S.;
 - iv. Route stormwater treated with polymers, flocculants, or other treatment chemicals through sediment trapping, filtering, and/or settling device(s) to ensure adequate removal of sediment flocculent;
 - v. Comply with all Material Safety Data Sheet (MSDS) requirements under the Occupational Safety and Health Standards (29 CFR 1910) and recommendations provided by the product manufacturer; and
 - vi. Do not discharge cationic polymers, except for chitosan, except in compliance with state and/or local requirements designed to protect water quality from such discharges.

Request for Comment: EPA is interested in comments regarding the above proposed requirements on the use of chemicals for stormwater control. EPA is also interested specifically in whether commenters believe that it is necessary to require residual testing in connection with the use of chitosan, and whether a maximum dosage rate should be included in the permit.

- 2.1.4.6 **Dewatering practices:** You are prohibited from discharging groundwater or accumulated stormwater that is removed from excavations, trenches, foundations, vaults, or other points of accumulation associated with a construction activity, unless such waters are first treated by an appropriate control for sediment. Appropriate controls include, but are not limited to, sediment basins or traps, dewatering tanks, tube settlers, weir tanks, or filtration systems (e.g., bag or sand filters) that are designed to remove sediment. Uncontaminated, non-turbid dewatering wastewater, such as well-point ground water, can be discharged without being routed to a control provided the dewatering flow complies with the velocity dissipation requirements of Part 2.1.4.1. You must also meet the following requirements for dewatering activities:

- a. **Discharge requirements.**
 - i. Do not discharge floating solids or visible foam other than in trace amounts;

- ii. 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 wastewater is found to contain these materials;
 - iii. Utilize vegetated areas of the site to infiltrate wastewater from dewatering activities, unless infeasible;
 - iv. Provide energy dissipation at all points where dewatering wastewater is discharged. Dewatering discharges must not cause erosion at the discharge point or scouring of the banks of the water of the U.S.;
 - v. With sediment that has been removed during the maintenance of a dewatering device, you must manage such sediment in accordance with Part 2.1.3.4a(3), above;
 - vi. With backwash water, either haul away for disposal or return it to the beginning of the treatment process for another pass through the series of dewatering devices; and
 - vii. Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.
- b. **Treatment chemical restrictions.** If you are using polymers, flocculants, or other treatment chemicals to treat dewatering wastewater, you must comply with the requirements in Parts 2.1.4.5.

2.2. STABILIZATION REQUIREMENTS.

You are required to stabilize exposed portions of your site in accordance with the requirements of this Part. For the purposes of this permit, the following definitions apply:

- "Stabilization" is the process of covering exposed ground surfaces with vegetative or non-vegetative practices that reduce erosion and prevent sediment discharge from occurring.
- "Temporary stabilization" refers to the stabilization of exposed portions of the site in order to provide temporary cover (1) during the establishment and growth of vegetation, and/or (2) in areas where earth-disturbing activities will occur again in the future.
- "Final stabilization" refers to the stabilization of exposed portions of the site using practices that provide permanent cover and qualify the permittee for permit termination.

2.2.1. Deadlines for Initiating and Completing Stabilization.

2.2.1.1 **Deadline to initiate stabilization.** You must immediately initiate stabilization on exposed portions of your site where earth-disturbing activities have permanently or temporarily ceased, and will not resume for a period exceeding 14 calendar days.

- a. For the purposes of this permit, earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of your construction site will not resume for a period of 14 or more days, or for a period of 7 or more days if any of the conditions in Part 2.2.1.3a apply to your site, but such activities will resume in the future.

- b. For the purposes of this permit, earth-disturbing activities have permanently ceased when clearing and excavation within any area of your construction site has been completed, and final grade has been reached.

2.2.1.2 **Deadline to complete stabilization activities.** Within 7 calendar days of initiating stabilization on exposed portions of your site consistent with Part 2.2.1.1, you are required to have completed:

- a. For vegetative cover, all soil conditioning, seeding, watering, mulching, and any other required activities related to the planting and establishment of vegetation; and/or
- b. For non-vegetative cover, the installation or application of all such non-vegetative measures.

Request for Comment: EPA requests comment generally on the practicability of these timeframes. EPA requests comment on specific instances when the 7-day deadline to complete certain aspects of stabilization may not be practicable or where exceptions should be provided.

2.2.1.3 **Stabilization criteria and deadlines for discharges/disturbances to sensitive areas.**

- a. **Criteria for special stabilization deadlines.** Your stabilization deadlines differ from those specified above if any of the following will take place as a result of your construction activities:
 - i. You will conduct earth-disturbing activities within 50 feet of a water of the U.S. located on or immediately adjacent to your sites;
 - ii. You discharge to a water that is impaired for sediment or sediment-related parameters, or for nutrients, including impairments for nitrogen and/or phosphorus, as defined in Part 4.2 ;
 - iii. You discharge to a water identified by your state, tribe, or EPA, as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes as defined by Part 4.3; or
 - iv. You disturb slopes of 15 percent or greater.
- b. **Special stabilization deadlines.** If one of the conditions listed in Parts 2.2.1.3.i through 2.2.1.3.iv will occur on your site, you must comply with the specialized stabilization deadlines specified in Parts 2.1.2.1.i.4, 2.1.4.2c, and 4.2.2.2,.

2.2.1.4 **Deadlines for arid/semi-arid areas.** If your site is located in an arid area (i.e., areas with an average annual rainfall of less than 10 inches) or semi-arid area (i.e., areas with an average annual rainfall of 10 to 20 inches), you must initiate stabilization as soon as practicable following the temporary or permanent cessation of construction activities, in lieu of meeting the deadlines in Parts 2.2.2.1 and 2.2.2.2. Note that you are required to have stabilized the exposed portions of your site consistent with Part 2.2.2 prior to terminating permit coverage under Part 9.2.

Request for Comment: EPA requests comments on the above stabilization requirements applicable to sensitive areas and arid and semi-arid areas. Specifically regarding sensitive areas, EPA is interested in comment on treating as a sensitive area for stabilization purposes sites that will conduct construction activities in critical habitat areas or areas where listed

endangered species exist. EPA also welcomes comments on the appropriateness of combining the proposed “as soon as practicable” deadline above with a specific fallback deadline (e.g., not later than 28 days after the cessation of construction activities in an area).

2.2.2. Criteria for Stabilization.

To be considered adequately stabilized, you must meet the criteria below depending on the type of cover you are using, either vegetative or non-vegetative.

2.2.2.1 **Vegetative Stabilization.** For both temporary and final stabilization, if you are using vegetative cover to stabilize an exposed portion of your site, you must comply with one of the following criteria:

- a. Provide an established uniform perennial vegetative cover (e.g., evenly distributed without large bare areas), which covers 70 percent or more of the area that was covered by vegetation prior to commencing earth-disturbing activities authorized by this permit. When background vegetation covered less than 100 percent of the ground prior to commencing earth-disturbing activities, the 70 percent coverage criteria is adjusted as follows: if vegetation covered 50 percent of the ground prior to construction, then the requirement would be to provide a total vegetative cover at final stabilization of 70 percent of 50 percent ($0.70 \times 0.50 = 0.35$), or 35 percent of the site.
 - i. For *arid* or *semi-arid* regions - You must select, design, and install erosion control measures (e.g., degradable rolled erosion control products) with an appropriate seed base to provide erosion control for at least three years to achieve 70 percent vegetative cover within 3 years.
 - ii. For *agricultural lands* – Disturbed areas that are restored to their pre-construction agricultural use are not subject to these final stabilization criteria. Areas disturbed that were not previously used for agricultural activities, such as areas that are not being returned to preconstruction agricultural use, must meet the conditions for final stabilization in this Part.
- b. Design, install, and maintain vegetative cover methods that have been shown to achieve a level of stabilization that equals, once established, a cover management factor or “C-factor” value of 0.05 or less. To achieve this C-factor value, you must implement either:
 - i. One or a combination of cover methods described in Table H-1 of Appendix H, which have each been shown to achieve the 0.05 or less C-factor value; or
 - ii. An alternative cover method that has been shown to achieve the 0.05 or less C-factor value.

Refer to Appendix H for a list of C-factor values for commonly-used stabilization cover methods and additional information relating to compliance with this requirement.

Request for Comment: In the proposed permit, EPA provides two options for vegetatively stabilizing exposed portions of the site, including the 2008 CGP’s 70 percent criteria and the new C-factor value approach. EPA requests comments on whether the final permit should include only the C-factor value approach, and what the advantages would be of doing so.

- c. You must also comply with the following requirements:
 - i. If you are relying on the C-factor values in Appendix H, you must apply and maintain the cover measure(s) consistent with the specifications provided in Table H-1 in Appendix H;
 - ii. If soil compaction has occurred in areas that you intend to apply vegetative stabilization, you must use techniques that condition the soils in locations where soil compaction has occurred to support vegetative growth, consistent with Part 2.1.3.6;
 - iii. If you are using seed to establish vegetation, you must:
 - (1) Prior to application, roughen the area with furrows trending along the contours of the slope. After seeding, you must water, as applicable, until the seeds germinate and grow, re-seed areas that failed to germinate, and protect seeded areas from further disturbance; and
 - (2) Immediately after seeding, protect seeded areas with a temporary, non-vegetative cover (e.g., straw mulch, erosion control blankets, turf reinforcement matting) which has been shown to achieve a level of stabilization that equals a C-factor value of 0.1 for slopes less than 15%, or 0.3 for slopes of 15% or greater. You may either use non-vegetative cover methods that have been shown in Table H-1 of Appendix H to achieve these C-factor values, or choose to use alternative methods that have been shown to achieve these same C-factor values. If you elect to use an alternative cover method, you must provide documentation in the SWPPP from the product vendor or other source that supports your use of the specific method(s) to meet required C-factor value. You must comply with all specifications for design, application, and maintenance of the cover measure(s) included in Appendix H, and/or with any manufacturer's specifications if you are using alternative cover measures; and
 - iv. If you are using previously grown vegetative cover, such as sod grass, which will be rolled on to the exposed areas of the site, you must continue to water, re-seed, and protect planted areas as needed to ensure the growth of vegetation complies with Part 2.2.2.1a or Part 2.2.2.1b, whichever applies-.

2.2.2.2 Non-Vegetative Stabilization. If you are using non-vegetative cover methods (e.g., hydromulch or straw/fiber with netting, soil bonding agents with polyacrylamide, riprap, geotextiles, gravel) to stabilize an exposed portion of your site, you must comply with one of the following criteria depending on whether you are providing temporary or final stabilization:

- a. **Temporary Stabilization.** If you are using non-vegetative cover methods to provide temporary stabilization in exposed portions of your site, you must use one or a combination of practices that have been shown to achieve a level of stabilization that yields a C-factor value of no greater than 0.1 for slopes less than 15 percent, and no greater than 0.3 for slopes of 15 percent or greater. To achieve this C-factor value, you must use either:

- i. One or a combination of cover methods described in Table H-1 of Appendix H, which have each been shown to achieve the required C-factor value; or
 - ii. An alternative cover method that has been shown to achieve the required C-factor value. If you elect to use an alternative cover method, you must provide documentation in the SWPPP from the product vendor or other source that supports your use of the specific method(s) to meet the required C-factor value (i.e., no greater than 0.1 for slopes less than 15 percent; no greater than 0.3 for slopes of 15 percent or greater).
- b. **Final Stabilization.** To achieve final stabilization for the purposes of terminating permit coverage, you must use one or a combination of practices that have been shown to achieve a level of stabilization that yields a C-factor value of 0.05 or less. You must use either:
- i. One or a combination of cover methods described in Table H-1 of Appendix H, which have each been shown to achieve the required C-factor value; or
 - ii. An alternative cover method that has been shown to achieve the required C-factor value. If you elect to use an alternative cover method, you must provide documentation in the SWPPP from the product vendor or other source that supports your use of the specific method(s) to meet the 0.05 C-factor value.
- c. **Compliance with Design, Application, and Maintenance Specifications.** If you are relying on the C-factor values in Appendix H, you must apply and maintain the cover measure(s) consistent with the specifications provided in Table H-1 in Appendix H, and/or with any manufacturer's specifications as appropriate if you are using alternative cover measures.

2.2.3. Use of Site Stabilization to Reduce Disturbed Acres Counted Towards Application of Numeric Turbidity Limit.

If you have reduced the total acreage disturbed at your site to an amount that is below the acreage threshold for applying the numeric turbidity limit in Part 3, because your site has met the temporary or final stabilization requirements in Part 2.2.2, you are no longer required to comply with the numeric turbidity limit. Note that if stabilized areas will be re-disturbed in the future or further construction activities at the site will result in a total area of land disturbance that exceeds the minimum acreage threshold for triggering the application of the numeric turbidity limit, you are again immediately subject to the numeric turbidity limit and the requirements of this Part once such disturbance occurs.

2.3. POLLUTION PREVENTION REQUIREMENTS.

You are required to design, install, and maintain effective pollution prevention measures in order to minimize or prohibit the discharge of pollutants. To meet this requirement, you are required to:

- Eliminate certain pollutant discharges from your site (see Part 2.3.1); and
- Comply with pollution prevention standards for pollutant-generating activities that occur at your site (see Part 2.3.2).

These requirements apply to all areas of your construction site and any support activities covered by this permit consistent with Part 1.4.1.

2.3.1. Prohibited Discharges.

You are prohibited from discharging the following from your construction site:

- 2.3.1.1 Wastewater from washout of concrete;
- 2.3.1.2 Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- 2.3.1.3 Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- 2.3.1.4 Soaps or solvents used in vehicle and equipment washing;
- 2.3.1.5 Toxic or hazardous substances from a spill or other release; and
- 2.3.1.6 Waste, garbage, floatable debris, construction debris, and sanitary waste.

2.3.2. Pollution Prevention Standards.

You are required to comply with the pollution prevention standards in this Part if you conduct any of the following activities at your site or at an off-site location covered by this permit for construction support activities (see Part 1.4.1.3):

- Fueling and maintenance of equipment or vehicles;
- Washing of equipment and vehicles;
- Staging and storage of building materials, equipment, or vehicles;
- Washing of containers used for paint, concrete, or other materials; and
- Storage, handling, and disposal of construction waste.

The pollution prevention standards are as follows:

- 2.3.2.1 **Fueling and maintenance of equipment or vehicles.** If you conduct fueling and/or maintenance activities at your site for equipment or vehicles used for your construction activities, the following requirements apply:
 - a. *Location restrictions.* You must:
 - i. Locate any fueling and maintenance activities for equipment or vehicles outside of any buffers established consistent with Part 2.1.2; and
 - ii. Clearly flag off and designate areas to be used for fueling and maintenance activities and conduct such activities only in these areas.
 - b. *Design requirements for stormwater controls.* For on-site fueling and maintenance, you must provide secondary containment structures or other similarly effective means of preventing the discharge of spilled or leaked chemicals from the area designated for this activity. Note that, if applicable, you are required to comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR 112 and Section 311 of the CWA.

Request for Comment: EPA requests comment on the practicability of providing secondary containment or cover for fueling and maintenance areas on the site, and whether having provisions like spill kits available at the site is sufficient. Please identify specifically the situations where this requirement may not be practical.

- c. *Pollution prevention standards.* To comply with the prohibition in Part 2.3.1.3, you must not discharge fuels, oils, or other pollutants used during fueling and maintenance, and you must comply with the following:
 - i. Do not allow spilled or leaked chemicals to reach stormwater conveyance channels, storm drain inlets, or waters of the U.S.;
 - ii. Ensure adequate supplies are available at all times to handle spills (e.g., spill kits), leaks (e.g., drip pans), and disposal of used liquids;
 - iii. Use drip pans and absorbents under or around leaky vehicles;
 - iv. Do not clean surfaces by hosing the area down;
 - v. Dispose of oil and oily wastes, such as crankcase oil, cans, rags, and paper dropped into oils and lubricants in proper receptacles or recycle them; and
 - vi. Clean up spills or contaminated surfaces immediately, using dry clean up measures.
- d. *Maintenance requirements.* At least once per week, inspect all construction vehicles and equipment for signs of leaks, spills, and other releases of pollutants. If a leak, spill, or other release is detected, take the corrective action required in Part 6.3.2. You must document maintenance procedures in your SWPPP as described in Part 8.2.12.

2.3.2.2 **Washing of equipment or vehicles.**

- a. *Location restrictions.* You must:
 - i. Locate any equipment or vehicle washing operations outside of any buffers established consistent with Part 2.1.2; and
 - ii. Clearly flag off and designate areas to be used for washing and conduct such activities only in these areas.
- b. *Design requirements for stormwater controls.* Install secondary containment structures or similarly effective means to eliminate the potential discharge of wash waters from the area designated for this activity.
- c. *Pollution prevention standards.* To comply with the prohibition in Part 2.3.1.4 and the restriction in Part 1.4.1.4c, the discharge of soaps, detergents, or solvents used in vehicle and equipment washing is strictly prohibited.
- d. *Maintenance requirements.* At least once per week, inspect and, as necessary, maintain and repair containment devices to ensure their structural integrity to prevent discharges. You must document maintenance procedures in your SWPPP as described in Part 8.2.12.

2.3.2.3 **Staging and storage areas.**

- a. *Location restrictions.* You must locate areas to be used for staging and storage of building materials, equipment, or vehicles outside of any

buffers established consistent with Part 2.1.2. You must also clearly flag off and designate areas to be used for staging and storage, and conduct such activities only in these areas.

- b. *Design requirements for stormwater controls.* For all areas designated for staging and storage activities, you must install secondary containment structures or similarly effective means to eliminate discharges of stormwater from these areas.

Request for Comment: EPA requests comment on the practicability of providing secondary containment or cover for staging and storage areas on the site.

- c. *Pollution prevention standards.* You must:
 - i. Protect exposed construction materials with plastic sheeting or temporary roofs to prevent contact with rainwater, or provide secondary containment structures designed to eliminate the potential discharge of runoff from these areas.
 - ii. For pesticide, herbicide, insecticide, and fertilizer storage, handling, use, and disposal:
 - (1) Prevent exposure of pesticide, herbicide, insecticide, and fertilizer storage areas to stormwater; and
 - (2) Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label.
 - iii. Store diesel fuel, oil, hydraulic fluids, other petroleum products, chemicals, and other materials that could contaminate stormwater in covered, water-tight containers, or provide secondary containment.
 - iv. Label all containers that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur.
 - v. Clean up spills or contaminated surfaces immediately, using dry clean up measures.
- d. *Maintenance requirements.* At least once per week, inspect any containers, coverings, or secondary containment structures to ensure their structural integrity and to check for leaks. If there are signs of a leak or of holes or other gaps in the containers that could lead to a spill, take the corrective action required in Part 6.3.2. You must document maintenance procedures in your SWPPP as described in Part 8.2.12.

2.3.2.4 Washing of applicators and containers used for paint, concrete, or other materials.

- a. *Location restrictions.* You must:
 - i. Conduct washout outside of any buffers established consistent with Part 2.1.2; and
 - ii. Clearly flag off and designate areas to be used for washing and conduct such activities only in these areas.

- b. *Design requirements for stormwater controls.* You must:
 - i. Direct all washwater into a leak-proof container or pit; and
 - ii. Design washwater containers or pits so that no overflows can occur during rainfall or after snowmelt.
- c. *Pollution prevention standards.* You must comply with the following requirements:
 - i. Dumping of liquid wastes in storm sewers is prohibited;
 - ii. Dispose of liquid wastes in accordance with Part 2.3.2.5; and
 - iii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part 2.3.2.5.
- d. *Maintenance requirements.* At least once per week, you must inspect any containers or pits used for washout to ensure structural integrity, adequate holding capacity, and to check for leaks. If there are signs of a leak or of holes or other gaps in the containers or pits that could lead to a discharge, repair them prior to further use, and take the corrective action required in Part 6.3.2. For concrete washout areas, remove hardened concrete waste whenever necessary to avoid overflows, such as whenever the hardened concrete has accumulated to a height of $\frac{1}{2}$ of the container or pit. You must document maintenance procedures in your SWPPP as described in Part 8.2.12.

2.3.2.5 Storage, handling, and disposal of construction waste.

- a. *Location restrictions.* You must identify and locate areas dedicated for management or disposal of land clearing and demolition debris, construction and domestic waste, hazardous or toxic waste, and sanitary waste (e.g., toilet facilities) outside of any buffers established consistent with Part 2.1.2.
- b. *Design requirements for stormwater controls.*
 - i. *Construction and Domestic Waste* (e.g., packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, styrofoam, and other trash or building materials). You must:
 - (1) Provide waste containers (e.g., dumpster or trash receptacle) of sufficient size and number to contain construction and domestic wastes;
 - (2) Ensure waste containers have lids or covers that can be placed over the container to prevent loss of wastes during rainy and/or windy conditions; and
 - (3) Store wastes that cannot be disposed of in a container under cover or indoors.
 - ii. *Hazardous or Toxic Waste* (e.g., paints, solvents, petroleum-based products, pesticides, wood preservatives, additives, curing compounds, acids, fertilizers, roofing tar). You must:
 - (1) Store waste in sealed containers constructed of suitable materials. Label all containers that could be susceptible to spillage or leakage to encourage proper handling and facilitate

- rapid response if spills or leaks occur. Label containers as follows: "Hazardous/Toxic Waste", or as otherwise required by federal, state or local requirements;
- (2) Store sealed containers outside of any buffers established consistent with Part 2.1.2;
 - (3) Separate storage of hazardous or toxic waste from construction and domestic waste; and
 - (4) Provide secondary containment to prevent spills from being discharged.
- iii. *Sanitary Waste*. You must stabilize portable toilets so that they are secure, and will not be tipped or knocked over.
- c. *Pollution prevention standards*.
- i. *Construction and Domestic Waste*. You must comply with the following:
 - (1) On a daily basis, clean up and dispose of waste in designated waste containers required in Part 2.3.2.5bii;
 - (2) Clean up immediately if containers overflow;
 - (3) Do not hose down spilled waste; and
 - (4) Do not dispose of hazardous or toxic materials in areas designated for construction and domestic wastes.
 - ii. *Hazardous or Toxic Waste*. You must eliminate the discharge of hazardous or toxic waste. To do this, you must comply with the following:
 - (1) On a daily basis, clean up hazardous or toxic waste and place it in applicable containers required in Part 2.3.2.5bii;
 - (2) Do not hose down waste that has spilled onto pavement or other impervious surfaces. Use dry clean-up methods, and dispose of used materials properly; and
 - (3) Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal where appropriate and federal, state, or local requirements.
 - iii. *Sanitary Waste*. To comply with the prohibition in Part 2.3.1.6, you must eliminate the discharge of sanitary wastes.
- d. *Maintenance requirements*. At least once per week, you must inspect all containers or other devices used for the collection, storage, detention, and/or disposal of wastes for leaks or overflows. If such a leak or overflow is detected, take the corrective action required in Part 6.3.2. You must document maintenance procedures in your SWPPP as described in 8.2.12.

2.3.3. Emergency Spill Notification.

You are prohibited from discharging toxic or hazardous substances from a spill or other release, consistent with Part 2.3.1.5. 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 Part 110, 40 CFR Part 117, or 40 CFR Part 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 Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as you have knowledge of the discharge. State or local requirements may necessitate reporting spills or discharges to local emergency response, public health, or drinking water supply agencies.

2.3.4. Fertilizer Discharge Restrictions.

You are required to minimize discharges of fertilizers containing nitrogen and phosphorus. To meet this requirement, you must comply with the following requirements:

- 2.3.4.1 Apply at a rate or amount based on manufacturer's specifications, or document departures from the manufacturer specifications where appropriate in Part 8.2.8.2 of the SWPPP;
- 2.3.4.2 Apply at the appropriate time of year based on your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- 2.3.4.3 Avoid applying before heavy rains;
- 2.3.4.4 Never apply to frozen ground;
- 2.3.4.5 Limit application on steep slopes;
- 2.3.4.6 Never apply to stormwater conveyance channels; and
- 2.3.4.7 Follow other state or local requirements regarding fertilizer application.

3. NUMERIC TURBIDITY LIMIT AND SAMPLING REQUIREMENTS

If you meet the applicability requirements in Part 3.1, you are required to comply with the numeric effluent limitation for the pollutant turbidity in Part 3.2.

If you are subject to the numeric turbidity limit, you must continue to comply with this limit until you either terminate coverage under this permit pursuant to Part 9, or you can claim the exception in Part 3.1.3.2, below.

Note: If EPA has not finalized its recalculation of the C&D rule's numeric turbidity limit prior to the final issuance of this permit, the numeric limit and associated monitoring requirements will not be included in the permit.

3.1. APPLICABILITY OF NUMERIC TURBIDITY LIMIT.

3.1.1. Types of construction activities whose discharges are covered by the numeric turbidity limit.

You are required to comply with the numeric turbidity limit in Part 3.2 if your site is a new source or existing unpermitted discharger, and your construction activity meets the characteristics of # 2 or 3 in Table 3-1, below.

Table 3-1 Who Is Subject to the Numeric Turbidity Limit?

Scenario	If your construction activity will commence ...	and you will disturb a total amount of land area at one time equal to ...	Are your discharges subject to the numeric turbidity limit?
1	Prior to August 1, 2011	Any amount	No
2	Between August 1, 2011 and before February 2, 2014	20 or more acres	Yes
		Less than 20 acres	No
3	On or after February 2, 2014	10 or more acres	Yes
		Less than 10 acres	No

In accordance with Table 3-1, you are subject to the numeric turbidity limit if your construction activity meets any of the following:

- 20-acre land disturbances:** Your construction activities will commence between August 1, 2011 and before February 2, 2014, and will disturb 20 or more acres of land at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale; and
- 10-acre land disturbances:** Your construction activities will commence on or after February 2, 2014, and will disturb 10 or more acres of land at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale.

Parts 3.1.2 and 3.1.3 include additional information on which construction activities are covered and which activities are not covered.

3.1.2. Exceptions to the application of the numeric turbidity limit.

Despite the fact that by virtue of Part 3.1 the numeric limit applies to your project's discharges, you are nevertheless not required to comply with the limit if any of the following exceptions apply:

- 3.1.2.1 **Storms larger than the local 2-year, 24-hour storm:** If you determine that your stormwater discharges in any day are generated by a storm event in that same day that is larger than the local 2-year, 24-hour storm, you are not required to comply with the numeric turbidity limit for that day. In order to demonstrate that you qualify for this exception following a particular storm event, you must record the amount of rainfall (in inches) that occurred at your site using a rain gauge, or similar device, or using data from other sources that are no more than 5 miles distance from your site. Refer to Appendix I for further information regarding how to determine the volume of rain that equates to your area's local 2-year, 24-hour storm, and how to qualify for this exception.
- 3.1.2.2 **Disturbed areas are less than the threshold for application of numeric turbidity limit:** If as a result of meeting the requirements for temporary or final stabilization in Part 2.2.2, the total disturbed portions of your site are less than the amount needed to require application of the numeric turbidity limit, the numeric limit would not apply to the discharges from the site. See also Part 2.2.3. For instance, if site stabilization reduces the total amount of disturbed acres to below 20 (assuming the project takes place between August 2, 2011 and February 2, 2014), the site no longer meets the minimum applicability requirements in Part 3.1.2 and the numeric limit would no longer apply to discharges from the site.
- 3.1.2.3 **Construction of interstate natural gas pipelines.** If your discharge is from the construction of interstate natural gas pipelines that are under the jurisdiction of the Federal Energy Regulatory Commission (FERC), you are not required to comply with the numeric turbidity limit.

3.2. NUMERIC EFFLUENT LIMIT.

If you determine based on Part 3.1 that you are subject to the numeric turbidity limit, the average turbidity of any discharge for any day must not exceed the value listed in Table 3-2:

Table 3-2 Numeric Effluent Limit.

Pollutant	Daily Maximum Value (NTU) ¹
Turbidity	Placeholder for final, recalculated numeric turbidity limit - 40 CFR 450.22

¹ Nephelometric turbidity units.

3.3. SAMPLING REQUIREMENTS.

You are required to demonstrate compliance with the numeric effluent limit for turbidity in Part 3.2 by taking samples of stormwater discharges from your site. Samples must be taken consistent with the requirements in this Part. Note that these sampling requirements also

apply to EPA, states, local governments, or third parties who may take samples of your project's discharge(s).

3.3.1. When to sample.

- 3.3.1.1 **Types of discharge conditions requiring sampling.** You are required to take samples of your stormwater discharges during any storm event or snowmelt condition that results in a discharge of stormwater from your construction site, or when there is an authorized non-stormwater discharge from your site.

Request for Comment: EPA requests comment on whether the permit should include a minimum rainfall amount associated with this requirement below which no sampling is required. The Agency has some concerns about this approach, for instance, how it would be implemented in the field prior to the permittee knowing how much precipitation will end up falling, but is interested in feedback on this issue.

- 3.3.1.2 **Site conditions not requiring sampling.** You are not required to take samples of stormwater flow that exits your site in a non-discernible, non-confined, and non-discrete form. For example, if stormwater enters an infiltration device and is allowed to completely infiltrate, then no sampling would be required.
- 3.3.1.3 **Time of day.** You are only required to take samples during normal working hours. For the purposes of this permit, normal working hours are considered to be Monday through Friday, between the hours of 8:00 am and 6:00 pm, unless your working hours are different at your site. You are required to document your working hours as part of your SWPPP in accordance with Part 8.2.12.2c.

If sampling is discontinued due to the end of normal working hours, you are required to resume sampling the following morning or the next morning of the next working day following a weekend or holiday, as long as the discharge continues.

- 3.3.1.4 **Unsafe storm conditions under which sampling is not required.** You are only required to take samples during conditions that are safe to sampling personnel. Where your site is experiencing, or will imminently experience, conditions such as high winds, lightning, or intense rainfall, which would cause a reasonable person to believe that the safety of the members of the stormwater team taking samples to be in jeopardy, you are relieved from sampling during those conditions. You must take samples as soon as such unsafe conditions are no longer present or threatening, as long as at that time a discharge continues to occur.

3.3.2. Sampling frequency.

You must collect your first sample within the first hour that the discharge begins. After you take your first sample (as required in Part 3.3.1), you must take a minimum of 2 additional samples (a total of 3 samples) during the remaining hours of the work day (for normal working hours) that the discharge continues. The 3 samples must be distributed in such a way that the beginning, middle, and end of the discharge for that day are represented. If the discharge continues on the subsequent day(s), you must take a minimum of 3 samples per day that there is a discharge. If you are unable to conduct the required minimum number of samples in any one day, you must notify EPA of this fact when you submit your monthly report and indicate the reason why the 3 samples were not taken. You may take more than 3 samples in a given day provided the samples,

taken as a whole, are representative of your discharge for that day. You must use all valid sample results in calculating compliance with the numeric limit.

Request for Comment: EPA requests comments on the above sampling frequency and on the alternative option of requiring samples to be taken once every 2 hours following the first sample. Which option would be clearer in terms of implementation (and why), and which option would be more likely to generate representative samples (and why)?

3.3.3. Sampling location.

You must take samples of all discharge points where stormwater or allowable non-stormwater is discharged, except for linear projects as defined in Appendix B, which are authorized to take representative samples in accordance with Part 3.3.3.4. You must also meet the following requirements relating to the location where samples are taken:

- 3.3.3.1 Prior to taking the first sample, you must clearly mark all discharge points on your site with flags, stakes, tape, or other visible markers that will last for the duration of your construction activity;
- 3.3.3.2 Your sampling points must be positioned at locations that are downstream from disturbed portions of the site and downstream from any stormwater controls installed on your site in compliance with this permit. For instance, if the discharge occurs after stormwater and/or authorized non-stormwater flows into a sediment basin, and the sediment basin is the last stormwater control prior to discharging from the site, the sampling point must be positioned after the basin outfall;
- 3.3.3.3 If your discharge enters a storm drain inlet, you should take samples at the point where stormwater flow enters the inlet; and
- 3.3.3.4 If you are required to comply with the numeric turbidity limit for a linear project, and you have two or more discharge points that you believe discharge substantially identical effluents, based on the similarities of the exposed soils, slope, and type of stormwater controls used, you may take samples of the discharge from just one of the discharge points and report that the results also apply to the substantially identical discharge point(s). If your project continues for more than one year, you must rotate once per year the location where samples are taken so that a different discharge point is sampled every year. As required in Part 8.2.12.2a, your SWPPP must identify each outfall authorized by this permit and describe the rationale for any substantially identical outfall determinations.

Request for Comment: The Agency's preference is to limit the use of representative monitoring (allowing a single representative sample location for more than one discharge point) to linear-type projects. However, EPA requests comment on whether there are other specific situations where the permit should allow representative samples for other types of construction projects.

3.3.4. Sampling discharges consisting of stormwater originating outside your construction site.

If prior to discharging, your stormwater flow commingles with sources of stormwater that originate outside of your construction site, on property that is not owned or operated by you, the following applies:

- 3.3.4.1 You are required to take samples of discharges from your construction site that come into contact with earth-disturbing activities on your site and that

consist in part of stormwater that originates outside of your construction site from property that is not owned or operated by you; and

- 3.3.4.2 You are not required to sample sources of stormwater that originate outside of your construction site from property that is not owned or operated by you, which discharge from your site, but which do not come into contact with earth-disturbing activities on your site.

3.3.5. Sampling protocols.

You are required to comply with the following procedures in collecting each of your turbidity samples:

- 3.3.5.1 You must take either manual or automated grab samples; and
- 3.3.5.2 To ensure that each sample is representative of the flow conditions and other characteristics of the discharge, you must comply with the following sampling requirements:
- a. Take samples from the horizontal and vertical center of the stormwater outfall channel(s) or other sources of concentrated or channelized flow;
 - b. Avoid stirring the bottom sediments in the stormwater channel in which samples are taken by not walking through the areas of stormwater flow or disturbing the sediment with the sampling device;
 - c. Hold sampling container so that the opening faces the upstream direction of the stormwater channel in which samples are taken;
 - d. Do not overfill the sampling container; and
 - e. Keep the samples free from floating debris.

3.3.6. Sample analysis.

To ensure accurate analysis of your sample(s), you must:

- 3.3.6.1 Begin sample analysis as soon as possible after sample collection;
- 3.3.6.2 If you will analyze your sample results on site, use a field-calibrated nephelometer or turbidity meter (also referred to as a "turbidimeter").
- a. To ensure proper calibration, you are required to recalibrate your nephelometer or turbidity meter prior to each day's use of the device.
 - b. You are required to maintain the nephelometer in proper operating condition. Do not subject the nephelometer to mechanical shock, extreme heat, or humidity. Prevent moisture or dust from entering and accumulating inside the nephelometer; and
- 3.3.6.3 Comply with additional requirements in accordance with 40 CFR Part 136 procedures and manufacturer's specifications.

3.3.7. Recording of sampling results.

You must record the value of all turbidity samples taken. For each sample, you are required to record in a sampling log the following:

- 3.3.7.1 Results of the sample(s) for each day in nephelometric turbidity units (NTUs);
- 3.3.7.2 Arithmetic average of the samples for each day;

- 3.3.7.3 If the arithmetic average exceeds **[placeholder for final, recalculated numeric turbidity limit - 40 CFR 450.22]**, then indicate “exceedance” in the inspection log;
- 3.3.7.4 Date, name of discharge point, and time of sample;
- 3.3.7.5 Name(s) of the individual(s) who performed the sampling and analysis; and
- 3.3.7.6 Analytical technique used.

You are required to keep a current copy of your sampling log at the site or at an easily accessible location, such as a downloadable file, so that it can be made available at the time of an onsite inspection or upon request by EPA.

3.3.8. Actions Required if You Violate Numeric Turbidity Limit.

If the average value of your turbidity samples in any day exceeds **[placeholder for final, recalculated numeric turbidity limit - 40 CFR 450.22]**, you must implement the corrective actions required in Part 6.3.2 and document all related findings in accordance with that Part.

Request for Comment: EPA solicits comments on whether the permit should require an immediate notification (e.g., 24 hours) of EPA for extremely high turbidity levels. For instance, do commenters believe the permittee should be required to notify EPA within 24 hours of an exceedance that is two times or greater than the numeric limit? If you disagree with this approach, do you support some alternative threshold that would require immediate notification of EPA?

3.3.9. Reporting Turbidity Sample Results to EPA.

For each discharge point on your site, you are required to submit a report of your sampling results once per month as long as you are required to comply with the turbidity limit. Your first report is due 30 days after the first day of the first full month of coverage under this permit, and every 30 days thereafter. (For example, if you receive coverage under this permit on July 4, your first report is due on September 1, which must include the results of any samples taken between July 4 and August 1. For this same site, the next report would be due October 1 (with subsequent reports due every 30 days thereafter), which would include results from any samples taken between August 1 and August 31.)

Request for Comment: EPA requests comment on whether allowance should be made in the permit for quarterly reporting for those sites where no exceedances occur.

- 3.3.9.1 **Report all sampling data through eNOI system.** You must submit all sampling results electronically by using EPA's electronic NOI system, or “eNOI system”, at www.epa.gov/npdes/eNOI, unless your EPA Regional Office specifically authorizes you to use a paper form.
- 3.3.9.2 **Report “no discharge” periods.** If there was no discharge from particular discharge points on your site, you must report that no discharge occurred and the particular discharge point(s) to which that applies.
- 3.3.9.3 **Contents of sampling reports.** For each discharge point, you must include the following information:
 - a. Identification of discharge point. If the discharge point is from a linear project and is representative of one or more substantially similar

- discharge points, include the names or locations of the other discharge points;
- b. Date sample(s) taken;
 - c. Arithmetic average of samples taken on each day of discharge, or, if there was no discharge during the sampling period for that discharge point indicate "no discharge." You must also indicate in your report if there were days when a discharge occurred, but you were not able to take the minimum required 3 samples; and
 - d. If you have precipitation data demonstrating that you qualify for the exception for exceedances caused by the 2-year, 24-hour storm, indicate the amount of rainfall (in inches) that occurred at your site during this storm event, based on precipitation data collected at your site or from an alternate location no greater than 5 miles from your site.

4. WATER QUALITY-BASED EFFLUENT LIMITATIONS

4.1. GENERAL EFFLUENT LIMITATION TO MEET APPLICABLE WATER QUALITY STANDARDS

Your discharge must be controlled as necessary to meet applicable water quality standards. You must also comply with any additional requirements that your state or tribe requires you to meet in Part 10.

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 your discharge is not being controlled as necessary to meet applicable water quality standards, you must take corrective action as required in Part 6.3.2, document the corrective actions as required in Part 6.4, and report the corrective actions to EPA as required in Part 6.6.

EPA may also impose additional water quality-based limitations on a site-specific basis, or require you to obtain coverage under an individual permit, if information in your NOI, required reports, or from other sources indicate that your discharges are not controlled as necessary to meet applicable water quality standards.

4.2. DISCHARGE LIMITATIONS FOR IMPAIRED WATERS

For the purposes of this Part, "impaired waters" are waters identified as impaired on the CWA Section 303(d) list, or waters with an EPA-approved or established TMDL.

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 identified by a state, tribe, or EPA pursuant to Section 303(d) of the CWA as not meeting an applicable water quality standard, or is included in an EPA-approved or established total maximum daily load (TMDL). 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 further instructions regarding whether your site discharges to an impaired water, refer to Appendix J.

Request for Comment: EPA requests comments on the way in which this permit determines whether there is a discharge to impaired waters. EPA notes that it is developing an on-line mapping tool to assist construction operators in determining their receiving water, whether the waterbody is impaired, and, if so, for what pollutant. This tool will be available prior to the issuance of the final permit.

If you discharge to an impaired water that is impaired for sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or nutrients, including impairments for nitrogen and/or phosphorus, you are required to comply with the requirements in Part 4.2.2.

If you discharge to an impaired water that is impaired for a parameter other than a sediment-related parameter or nutrients, you are required to comply with the stormwater control requirements in Part 4.2.3. EPA will inform you if any additional limits or controls are necessary for your discharge to be consistent with the assumptions of any available wasteload allocation in the TMDL, or if coverage under an individual permit is necessary in accordance with Part 1.5.6.

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

4.2.1. Identify If You Discharge To An Impaired Water.

If you discharge to an impaired water, you must provide the following information in your NOI:

- The latitude and longitude location of your discharge point(s);
- A list of all impaired waters to which you discharge;
- The pollutant(s) for which the water of the U.S. is impaired;
- Whether a TMDL has been approved or established by EPA for that pollutant; and
- If so, the title or reference of the TMDL document.

If you indicate in your NOI that you do not discharge to an impaired water, EPA may determine, based on additional information, that you are considered to be discharging to an impaired water. If this is the case, you will be notified of EPA's determination, and be provided with an opportunity to comply with additional requirements as a condition of your permit coverage, consistent with Part 4.2.2.

4.2.2. Requirements for Discharges to Sediment or Nutrient-Impaired Waters.

If you discharge to an impaired water (as defined in Part 4.2) that is impaired for sediment or a sediment-related parameter (e.g., total suspended solids (TSS) or turbidity) and/or nutrients (e.g., nitrogen and/or phosphorus), including impaired waters for which a TMDL has been approved or established for the impairment, you are required to comply with the following stormwater control requirements, which supplement the requirements applicable to your site in other corresponding parts of the permit.

Additionally, you must comply with any additional state or tribal impairment-related requirements included in Part 10.

- 4.2.2.1 **Water quality benchmark monitoring.** If your construction activities disturb 10 or more acres of land at any one time, you must conduct water quality benchmark monitoring for the sediment and/or nutrient parameter(s) for which the receiving water is impaired during the period of time when you disturb 10 or more acres. You may discontinue benchmark sampling when you have met the temporary or final stabilization criteria in Part 2.2.2 for an area of land sufficient to reduce your total amount of disturbed land to less than 10 acres.

Request for Comment: EPA requests comment on the utility of benchmark monitoring and whether it is an appropriate tool for use in assessing the effectiveness of construction stormwater controls in not contributing to existing impairments. EPA also requests comment on whether benchmark monitoring should be required for impaired waters regardless of whether or not a TMDL has been approved or established, or only for those impaired waters without an approved or established TMDL. EPA solicits feedback on the 10-acre disturbance threshold in Part 4.2.2.1 below which no benchmark monitoring is required. Among other things, EPA is interested in whether the disturbance threshold should be set at a different size, either lower or higher. EPA also requests comment on the specific benchmark levels in Appendix J. EPA also requests comment on whether use of nitrogen or phosphorous fertilizer on vegetative cover for stabilization would impact the permittee's ability to achieve benchmark levels and if so, should

the benchmark provisions include an exception for this situation. EPA also requests comment on whether it should account for natural variability in stormwater discharges in establishing benchmark requirements, and if so, how. Finally, in addition to requiring benchmark monitoring for discharges to sediment and nutrient-impaired waters, EPA also welcomes comment on how benchmark monitoring might be used for discharges to waters that are habitat for listed (i.e., threatened or endangered) fish species (e.g., white sturgeon, sockeye salmon).

- a. **Benchmark levels:** The benchmark level you are assigned is included in Table J-1 in Appendix J, which is organized by specific impaired waters. The benchmark level to which you are assigned appears in the column entitled “benchmark level.”
- b. **Benchmark monitoring requirements:** All benchmark samples must be taken consistent with the requirements in this Part. Table 4-1 summarizes the benchmark monitoring requirements to which you are subject.

Table 4-1 Benchmark Monitoring Requirements.

Impairment Pollutant	Benchmark Level	Unit of Measurement	Type of Sample	Monitoring Frequency	Minimum # of Samples Per Day	Analytical Method
Turbidity	See Table J-1.1 - J-1.7	NTU	Grab	Once per week when discharge occurs	3	40 CFR Part 136
Total Nitrogen	See Table J-1.1 - J-1.7	mg/l	Grab	Once per week when discharge occurs	3	40 CFR Part 136
Total Phosphorus	See Table J-1.1 - J-1.7	mg/l	Grab	Once per week when discharge occurs	3	40 CFR Part 136

- i. **When samples are required to be taken:** You must comply with the requirements in Part 3.3.1 with respect to when to take benchmark samples.
- ii. **Sampling frequency:** You are required to monitor your discharge once per week at a minimum, unless there is no discharge from your site during a particular week.

You must collect your first sample within the first hour that the discharge begins. After you take your first sample, you must take a minimum of 2 additional samples (a total of 3 samples) during the remaining hours of the work day (normal working hours, unless you choose to conduct sampling outside of normal working hours) that the discharge continues. The 3 samples must be distributed in such a way that the beginning, middle, and end of the discharge for that day are represented. If you are unable to conduct the required minimum number of samples in any one day, you must notify EPA of this fact when you submit your monitoring report and indicate the reason why the 3 samples were not taken.

- iii. **Sampling location:** You must comply with the requirements in Part 3.3.3 with respect to where benchmark samples must be taken.
 - iv. **Representative sampling requirements for linear projects:** For linear projects subject to the requirements in this Part, you may take samples consistent with Part 3.3.3.4.
 - v. **Sampling discharges consisting of stormwater originating outside your construction site:** If prior to discharging, your stormwater flow commingles with sources of stormwater that originate outside of your construction site, on property that is not owned or operated by you, you must comply with the requirements in Part 3.3.4.
 - vi. **Sampling protocols:** You must comply with the requirements in Part 3.3.5 with respect to the sampling protocols that apply to benchmark monitoring required under this Part.
 - vii. **Sample analysis:** If you are taking benchmark samples for turbidity, you must comply with the requirements in Part 3.3.6 with respect to the proper procedures for analyzing samples. For all other pollutants, you must analyze corresponding samples consistent with 40 CFR Part 136 analytical methods and using test procedures with quantitation limits at or below benchmark values for all benchmark parameters for which you are required to sample.
- c. **Recording of monitoring results:** You must record the value of all samples taken from your discharge points. For each discharge point from which you took samples, you are required to record in a monitoring log, which you must keep in the same location as your SWPPP or at an easily accessible location (such as a downloadable file), the following:
- i. Results of the sample(s) for each day in which you conducted monitoring. The results must be recorded in the same units in which the benchmark is expressed in Table J-1 (e.g., NTUs for turbidity);
 - ii. Arithmetic average of the samples taken in any one day;
 - iii. If the arithmetic average exceeds your water quality benchmark, then indicate "exceedance" in the monitoring log;
 - iv. Date, name of discharge point, and time of sample;
 - v. Name of the individual who performed the sampling and analysis; and
 - vi. Analytical technique used.
- d. **If samples exceed the benchmark, conduct corrective action:** If the average value of your benchmark samples in any day exceed the applicable benchmark level, you must implement the corrective actions required in Part 6.3.1. Note that an exceedance of a benchmark does not constitute a violation of the permit. However, a violation would result if you fail to implement the required corrective actions in Part 6.3.1.

If you are subject to both the numeric turbidity limit in Part 3.2, and the benchmark requirement in this Part, the following applies, assuming the numeric turbidity limit is a higher turbidity value than the benchmark

level. If your sample results indicate that you have exceeded both the numeric turbidity limit and the benchmark level, you will still be considered to have violated the turbidity limit and exceeded the benchmark level. If you exceed the benchmark level, but your turbidity levels are below the numeric limit, you will only have exceeded the benchmark level, and no violation will have occurred.

- e. **Reporting benchmark monitoring results to EPA:** For each discharge point on your site, you are required to report your monitoring results to your EPA Regional Office on a quarterly basis. The following is a list of the 3-month intervals to be used for this permit's reporting quarters and the deadline for submitting the reports to EPA that correspond to each quarter:

Quarter	Reports Must be Submitted to EPA No Later Than ...
January 1 – March 31	April 30
April 1- June 30	July 31
July 1 – September 30	October 31
October 1 – December 31	January 31

You must submit your sampling results within 30 days of the end of each quarter. If you have just received coverage under the permit, your date of coverage will determine which quarter you will use for reporting. For instance, if you receive coverage under this permit on July 4, your reporting period is July 1 – September 30; data for your first reporting period must be submitted to EPA by October 31, which is 30 days after the end of the reporting quarter.

- i. **Report sampling data to EPA Regional Office.** You must submit all sampling results to your applicable EPA Regional Office.
 - ii. **Contents of sampling reports.** For each discharge point, you must include the information you recorded in Part 4.2.2.1c for all samples for which you have received results from that quarter.
 - iii. **Report “no discharge” periods.** If there was no discharge from particular discharge points on your site for any particular week, you must report that no discharge occurred and the particular discharge point(s) to which that applies.
- 4.2.2.2 **Stabilization requirements.** You must comply with the following stabilization requirements, which replace the corresponding requirements in Parts 2.2.1:
- a. You must immediately initiate stabilization in any exposed areas of your site where earth-disturbing activities have permanently or temporarily ceased, and will not resume for a period exceeding 7 calendar days. For the purposes of this permit, earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of your construction site will not resume for a period of 7 or more days, and earth-disturbing activities have permanently ceased when

- clearing and excavation within any area of your construction site has been completed, and final grade has been reached.
- b. Within 3 work days of initiating stabilization, you are required to have completed:
 - i. For vegetative cover, all soil conditioning, seeding, watering, mulching, and any other required activities related to the planting and establishment of vegetation; and/or
 - ii. For non-vegetative cover, the installation or application of all non-vegetative measures.
- 4.2.2.3 **Site Inspection Requirements.** You are required to comply with the following modified inspection requirements:
- a. **Weekly site inspections.** You must conduct site inspections once every 7 calendar days at a minimum, and within 24 hours of a storm event of 0.25 inches or greater or within 24 hours of a discharge caused by snowmelt, instead of the frequency specified in Part 5.1.2.
 - b. **Daily visual examination.** In addition to being required to conduct weekly site inspections, you must also conduct a daily visual examination of certain portions of your site. During your daily visual examination, you must at a minimum:
 - i. Check whether all stormwater controls are installed, appear to be operational, and are working as intended to remove sediment prior to discharge. Determine if any stormwater controls need to be replaced, repaired, or maintained. As necessary, initiate corrective action under Part 6.2.1; and
 - ii. Check for the presence of deposited sediment. Initiate corrective action under Part 6.3 as necessary.

Request for Comment: EPA requests comment on the practicability of conducting daily visual examinations as proposed above, and on the practicability of the timeframes for stabilization in Part 4.2.2.2.

Request for Comment: EPA requests feedback on the appropriateness of the proposed additional requirements for sites discharging to impaired waters in this part of the permit. If you have concerns with the proposed requirements, please specify alternate requirements that you believe would work better for these discharges.

EPA also solicits comment on whether the focus on impairments for sediment and nutrients (and related parameters) should be expanded to cover certain biological impairments that are attributable to either sediment or nutrients.

4.2.3. Requirements for Discharges to Waters Impaired for Other Pollutants.

If you discharge to an impaired water (as defined in Part 4.2) that is impaired for a pollutant other than sediment or sediment-related pollutants or for nutrients, including impairments for nitrogen and/or phosphorus, EPA will inform you if you are required to comply with additional limits or controls that are necessary for your discharge to be controlled to meet applicable water quality standards, or that are necessary to be consistent with the wasteload allocations in an approved or established TMDL, or if coverage under an individual permit is necessary in accordance with Part 1.5.6.

4.3. DISCHARGES TO WATERS IDENTIFIED AS TIER 2, TIER 2.5, OR TIER 3.

4.3.1. Identification of Discharges to a Tier 2, Tier 2.5, or Tier 3 Water.

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. 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 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. If you discharge to a Tier 2, Tier 2.5, or Tier 3 water, you must provide on your NOI a list of waters identified as Tier 2, Tier 2.5, or Tier 3 to which you discharge.

4.3.2. Requirements for New Sources Discharging to Tier 2, Tier 2.5, or Tier 3 Waters.

If you are a new source or an existing unpermitted discharge that will discharge to a Tier 2, Tier 2.5, or Tier 3 water, you are required to comply with the requirements in Parts 4.2.2.2 and 4.2.2.3. In addition, EPA may notify you that additional analyses, stormwater controls, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary in accordance with Part 1.5.6.

5. INSPECTIONS

5.1. SITE INSPECTIONS.

5.1.1. Person(s) Responsible for Inspecting Site.

You are required to conduct inspections of your site consistent with this Part. 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." A "qualified person" is a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected to control the quality of stormwater discharges from the construction activity.

5.1.2. Frequency of Inspections.

At a minimum, you must conduct a site inspection once every 14 calendar days and within 24 hours of the end of a storm event of 0.25 inches or greater and within 24 hours of a discharge generated by snowmelt. If the storm event of 0.25 inches or greater, or snowmelt, causes your site to discharge, within 24 hours of the end of the storm event or the beginning of the snowmelt discharge, you must conduct a site inspection when the discharge is occurring and comply with the requirements of Part 5.1.4.3. If the storm event does not cause your site to discharge or if the site did not discharge within 24 hours of the end of the storm event you must conduct a site inspection that complies with the requirements of Part 5.1.4.2. If there is a discharge from your site on multiple days, you are required to conduct an inspection within 24 hours of the end of the storm. EPA notes that inspections are only required during the project's normal working hours.

5.1.3. Reductions in Inspection Frequency.

Your inspection frequency may be reduced as follows:

5.1.3.1 **For stabilized areas.** You may reduce the frequency of inspections to once per month in areas of your site where you have initiated vegetative stabilization that meets the criteria in Part 2.2.2.1, once you have completed the initial seeding or planting, and provided protection with non-vegetative cover pursuant to Part 2.2.2.1ciii, or you have installed temporary, non-vegetative stabilization that meet the criteria in Part 2.2.2.2. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in Part 5.1.2.

5.1.3.2 **For arid and semi-arid areas.** You may reduce the frequency of inspections to once per month if your site is located in an arid area (i.e., areas with an average annual rainfall of less than 10 inches) or semi-arid area (i.e., areas with an average annual rainfall of 10 to 20 inches).

5.1.4. Requirements for Inspections.

5.1.4.1 **Areas that need to be inspected.** During your site inspection, you must at a minimum inspect the following areas of your site:

- a. All areas that have been cleared, graded, or excavated;

- b. All stormwater controls, installed and maintained at the site to comply with this permit;
- c. Areas where sediment and other pollutants may have accumulated or deposited, including locations of on-site and off-site material, waste, borrow, or equipment storage and maintenance areas;
- d. All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater;
- e. All points of discharge from the site; and
- f. All locations where stabilization measures have been initiated.

5.1.4.2 **Inspection requirements when no discharge is occurring.** During your site inspection, you must at a minimum:

- a. Check whether all stormwater controls are installed, appear to be operational, and are working as intended to remove pollutants prior to discharge. Determine if any stormwater controls need to be replaced, repaired, or maintained. As necessary, initiate corrective action under Part 6.3;
- b. Check for the presence of sediment that is deposited in sufficient quantities and in locations on the site, such as roadways or parking lots, drainageways, sewer inlets, or discharge points, which, if left there, would likely be discharged. As necessary, initiate corrective action under Part 6.3;
- c. Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site, which, if left as they are, would likely lead to a discharge of pollutants. As necessary, initiate corrective action under Part 6.3;
- d. Describe areas of visible erosion that have occurred in any portion of the site, at points of discharge, and on the banks of any waters of the U.S. flowing within your property boundaries or immediately adjacent to your property;
- e. Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2, 3, and/or 4;
- f. Identify any incidents of noncompliance observed; and
- g. Document progress made on completion of any corrective actions.

5.1.4.3 **Inspection requirements during discharge conditions.** If a discharge is occurring during your inspection, you are required, in addition to Part 5.1.4.1 above, to:

- a. 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 obvious indicators of stormwater pollutants;
- b. Identify all points of the property from which there is a discharge; and
- c. Document whether your stormwater controls are operating effectively, and describe any such controls that are clearly not operating as intended or are in need of maintenance.

Request for Comment: In past versions of the CGP, representative inspections were allowed for linear construction projects at or near access points where a roadway, undisturbed right-of-way, or other similar feature intersected the construction site. See Part 4.G of the 2008 CGP. After revisiting this requirement, EPA is of the opinion that site inspections at linear sites should be performed at the same frequency and include the same requirements as any other construction site. First, EPA is concerned that a continued exception of this kind will stand as an impediment to the proper upkeep of stormwater controls. Second, it is EPA's understanding that most linear construction projects are completed in phases, and therefore regular inspections of the area of disturbance is both feasible and reasonable. EPA requests comments on this proposed change from the 2008 CGP.

5.1.5. Recordkeeping Requirements.

- 5.1.5.1 **Requirement to Keep Inspection Log.** You must keep an inspection log that records your findings from all site inspections you conduct during permit coverage. You are required to keep a current copy of your inspection log at the site or at an easily accessible location, such as a downloadable file, so that it can be made available at the time of an onsite inspection or upon request by EPA.
- 5.1.5.2 **Required Inspection Records.** Within 24 hours of completing your site inspection, you must record the following in your inspection log:
 - a. The inspection date; and
 - b. Summary of findings covering all information required in Part 5.1.4.
- 5.1.5.3 **Signature and 3-Year Record Retention Requirements.** Each inspection record must be signed in accordance with Appendix L, Part L.11 of this permit. These records must be retained for at least 3 years from the date that your permit coverage expires or is terminated.

5.2. INSPECTION REQUIREMENTS FOR SITES DISCHARGING TO IMPAIRED WATERS.

If you discharge to an impaired water (as defined in Part 4.2) that is impaired for sediment or a sediment-related pollutant, or for nutrients, including nitrogen and/or phosphorus, in addition to being required to conduct the inspections specified above, you are also required to meet the inspection requirements in Part 4.2.2.3.

5.3. INSPECTIONS BY EPA OR APPLICABLE LOCAL GOVERNMENT AUTHORITY.

You must allow an authorized representative of the EPA, or other federal, state, or local agency, to:

- 5.3.1. Enter onto your premises, at reasonable times, where a regulated construction activity is being conducted (or has been temporarily ceased), or where records are kept under the conditions of this permit;
- 5.3.2. Access and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 5.3.3. Inspect at reasonable times your construction site, including any off-site staging areas or material storage areas, and any stormwater controls installed and maintained at the site; and
- 5.3.4. Sample or monitor, at reasonable times, for the purpose of ensuring compliance.

6. CORRECTIVE ACTIONS

6.1. "CORRECTIVE ACTIONS" DEFINED.

Corrective actions are any actions you take to:

- Repair, modify, or replace any stormwater control used at the site;
- Clean up and dispose of spills, releases, or other deposits found on the site; and
- Remedy a permit violation.

6.2. SITE CONDITIONS REQUIRING CORRECTIVE ACTION.

You must take corrective actions whenever you identify, discover, or are made aware that any of the following conditions are present at your site:

6.2.1. Condition A.

Your stormwater controls are not designed, installed, and/or maintained as required in Part 2.1.3. Some of the specific conditions that trigger corrective action include the following:

- 6.2.1.1 A required stormwater control was never installed, was installed incorrectly or not in accordance with the requirements in Parts 2 and/or 4 (e.g., controls for washout of concrete, paint, etc. were insufficiently sized to contain typical washout volume), or was installed in a prohibited location;
- 6.2.1.2 A stormwater control is malfunctioning;
- 6.2.1.3 A stormwater control has not been maintained in effective operating condition, was not maintained as specified in this permit, or is in need of repair (e.g., a sediment control requires removal of accumulated sediment before it can be returned to proper function);
- 6.2.1.4 Sediment or other pollutants have been tracked out onto roadways or parking lots, or have visibly accumulated in or near any stormwater conveyance channels, in the immediate vicinity of your stormwater controls, or at outfall locations or entry points into the storm sewer system;
- 6.2.1.5 The stormwater discharge from your site appears excessively muddy or cloudy;
- 6.2.1.6 **[PLACEHOLDER: DETECTION OF CHITOSAN IN RESIDUAL TESTING (if included in final permit – see Part 2.1.4.6 "request for comment")]** If you are using a treatment chemical that contains chitosan, residual testing detects chitosan in your discharge; or
- 6.2.1.7 If you are subject to the benchmark sampling requirements in Part 4.2.2.1, samples indicate that you have a discharge that exceeds the applicable benchmark level.

6.2.2. Condition B.

A prohibited discharge of the type specified in Parts 2.3.1, 3.3.7.3, or 4.1 is occurring, or will occur if effective corrective actions are not taken, as evidenced by the fact that:

- 6.2.2.1 One of the prohibited discharges in Part 2.3.1 is occurring or has occurred;
- 6.2.2.2 If applicable to the site, turbidity samples indicate that a discharge exceeds the numeric turbidity limit in Part 3.2; or

- 6.2.2.3 The stormwater controls you have installed and are maintaining are not effective enough for the discharge to meet applicable water quality standards or applicable requirements in Part 4.1.

6.3. REQUIRED CORRECTIVE ACTIONS AND APPLICABLE DEADLINES.

You must complete the following corrective actions in accordance with the deadlines specified in this Part. However, if based on further analysis of the site conditions, you find that the source of the problem or violation is unrelated to your construction activity, you do not have to comply with the following required corrective actions and deadlines, and must document the reasons supporting your conclusion in Part 6.4.2.3.

6.3.1. Deadlines for Correcting Condition A.

If condition A occurs at your site, you must:

- 6.3.1.1 Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next full work day, if the problem can be easily fixed through a quick repair or the performance of regular maintenance of the stormwater control or pollution prevention measure;
- 6.3.1.2 If installation of a new stormwater control is needed, or an existing control requires significant redesign and reconstruction or replacement, install the new or modified control, and make it operational, by no later than 7 days from the time of discovery of this condition at your site. In such a situation, you must take immediate action to temporarily control stormwater discharges in this area until a permanent solution is installed; or
- 6.3.1.3 [PLACEHOLDER: If residual chitosan testing detects the presence of chitosan in your discharge, report the positive test to EPA within 24 hours of learning of the results, and immediately take action to reduce residual levels in the discharge. You must continue to conduct residual testing once per hour until residual levels are below the detection level of the residual test, at which point testing must be conducted once every 2 hours during normal working hours until the discharge ends.]

Request for Comment: EPA requests comment on whether there is a level of chitosan residual below which the proposed corrective action would not be necessary.

Where your corrective actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 7 days of completing corrective action work.

6.3.2. Deadlines for Correcting Condition B.

If condition B occurs at your site, you must:

- 6.3.2.1 Make every effort to minimize the prohibited discharge;
- 6.3.2.2 Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next full work day, if the problem can be easily fixed through a quick repair or the performance of regular maintenance of the stormwater control or pollution prevention measure (e.g., accumulated sediment on roads not swept up, perimeter controls knocked down, piles of graded or discarded soil left unstabilized or uncontained, spent fuels/oils dumped in leaky construction waste bin);

- 6.3.2.3 Upon discovery of any surfaces contaminated with pollutants or where there has been an accumulation of pollutants, immediately clean and dispose of pollutants and contaminated cleaning supplies using approved disposal procedures; or
- 6.3.2.4 When installation of a new stormwater control is needed, or an existing pollution prevention measure requires significant redesign and reconstruction or replacement, you must install the new or modified control, and make it operational, by no later than 7 days from the time of discovery of this condition at your site.

Request for Comment: EPA requests comment on whether there are situations when the 7-day deadline is not feasible. Please provide specific examples, and suggest alternative timeframes.

Where your corrective actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 7 days of completing corrective action work.

6.4. CORRECTIVE ACTION RECORDS.

6.4.1. Within 24 hours of discovering the occurrence of one of the triggering conditions in Part 6.2 at your site, you must provide a record of the following:

- 6.4.1.1 Which condition was identified at your site;
- 6.4.1.2 The nature of the condition identified; and
- 6.4.1.3 The date and time of the condition identified and how it was identified.

6.4.2. Within 14 days of discovering the occurrence of one of the triggering conditions in Part 6.2 at your site, you must provide a record of the following:

- 6.4.2.1 Any follow-up actions taken, including the dates such actions occurred, to review the design, installation, and maintenance of stormwater controls, and the nature of the condition identified on your site;
- 6.4.2.2 A summary of stormwater control modifications taken or to be taken, including a schedule of activities necessary to implement changes, and the date the modifications are completed or expected to be completed; and
- 6.4.2.3 Notice of whether SWPPP modifications are required as a result of the condition identified or corrective action.

If you conclude that, based on further analysis of the site conditions, the source of the problem or violation is unrelated to your construction activity, you must document this fact and the reasons supporting your conclusion.

Each new record of a triggering condition and any updates to those records for corrective actions taken must be signed and certified in accordance with Appendix L, Part L.11 of this permit. You are required to keep a current copy of these corrective action records at the site or at an easily accessible location, such as a downloadable file, so that it can be made available at the time of an onsite inspection or upon request by EPA. These records must be retained for at least three years from the date that permit coverage expires or is terminated.

6.5. COMPLIANCE IMPLICATIONS OF CORRECTIVE ACTIONS.

If the condition identified in this Part constitutes a permit violation (e.g., a violation of the numeric turbidity limit, evidence of tracked out sediment, excessively muddy discharge, occurrence of a prohibited discharge, exceedance of an applicable water quality standard), correcting it does not remove the original violation. Additionally, failing to take corrective action in accordance with this Part is an additional permit violation. EPA will consider the appropriateness and promptness of the corrective action in determining enforcement responses to permit violations.

6.6. REPORTING TO EPA.

You must notify your applicable EPA Regional Office by the end of the next full work day after discovering any of the following conditions at your site:

- [PLACEHOLDER: Detection of chitosan in the discharge (Part 2.1.4.5)]; or
- Occurrence of any of the conditions in Part 6.2.2.

You are required to submit your notification through EPA's electronic NOI system, or "eNOI", at www.epa.gov/npdes/eNOI. You will use your NOI tracking number (i.e., the EPA number you were assigned upon authorization under the permit) to upload a fillable notification form, which will ensure that EPA properly receives and processes your notice.

Request for Comment: EPA requests comments on whether the proposed deadline to submit these notifications is reasonable, or whether a different deadline is appropriate.

7. STAFF TRAINING REQUIREMENTS

You must ensure that all members of the stormwater team receive the necessary training to ensure that they understand the requirements of this permit and their specific responsibilities with respect to those requirements. The requirements in this Part do not apply to emergency-related construction activities that are eligible for permit coverage under Part 1.3.2.

7.1. PERSON(S) REQUIRING TRAINING.

The following members of your stormwater team must receive training:

- 7.1.1.** Personnel preparing and/or modifying the SWPPP for the construction activity at your site;
- 7.1.2.** Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls;
- 7.1.3.** Personnel who are responsible for conducting inspections as required in Part 5.1.1;
- 7.1.4.** Personnel who are responsible for taking corrective actions as required in Part 6; and
- 7.1.5.** If applicable, personnel who are responsible for taking samples as required in Parts 3.3 and 4.2.2.1.

7.2. WHEN TRAINING IS REQUIRED.

Members of the stormwater team must receive training, at a minimum:

- 7.2.1.** Prior to the commencement of earth-disturbing activities or pollutant-generating activities, whichever occurs first; and
- 7.2.2.** If the stormwater team member is a new employee, who starts after you commence earth-disturbing or pollutant-generating activities, prior to assuming particular responsibilities related to compliance with this permit.

7.3. WHAT TRAINING MUST INCLUDE.

The content and extent of training must be tailored to match the stormwater team member's duties and responsibilities related to this permit's requirements. At a minimum, training must enable the applicable stormwater team member to understand:

- The location of all stormwater controls on the site required by this permit, and how they are to be maintained;
- The proper procedures to follow with respect to the permit's pollution prevention requirements;
- When and how to conduct inspections, record applicable findings, take corrective actions, and, where appropriate, report violations to EPA; and
- When and how to take effluent samples, record the results, and submit reports to EPA.

7.4. TRAINING DOCUMENTATION.

You must keep records of the following related to your training of your stormwater team members:

- 7.4.1.1 Date of the training;
- 7.4.1.2 Names and titles of persons trained; and
- 7.4.1.3 Summary of the information covered in the training.

8. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

8.1. GENERAL REQUIREMENTS.

8.1.1. Requirement to Develop SWPPP.

You are required to develop a stormwater pollution prevention plan (SWPPP) that describes:

- Your construction activities, including the physical attributes of your site, the nature of your construction activities, certain characteristics of your stormwater discharge, and the people responsible for implementation activities under this permit; and
- The selection, design, installation, and maintenance of stormwater control measures used to control pollutants in discharges from your site in order to satisfy the effluent limitations in Parts 2, 3, and 4 of this permit.

At a minimum, your SWPPP must include the information required in Part 8.2. The SWPPP does not contain narrative or numeric effluent limits. You must also update the SWPPP as required in Part 8.4.

8.1.2. Person(s) Responsible for Developing SWPPP.

Any operator who seeks coverage under this permit must develop a SWPPP. Note that you have the option of developing a group SWPPP where you are one of several operators who will be engaged in construction activities at your site. For instance, if the construction site has a "primary operator" and at least one "secondary operator" (see Part 1.5.3), the primary operator may be the party responsible for SWPPP development, and the secondary operator(s) can choose to use this same SWPPP, as long as the SWPPP addresses all of the secondary operator(s) scope of construction work.

Request for Comment: During the development of this proposed permit, EPA was asked to consider modifying the SWPPP requirements to require that, where there are multiple operators associated with the same construction activity, the party who possesses the title of the land where the construction activity will take place and has operational control over construction plans and specifications, typically the property owner, be responsible for developing the SWPPP. Part III.A of Minnesota's 2008 CGP was suggested as a good model for this type of requirement, which requires the owner to develop the SWPPP, and that "as part of the SWPPP the owner must identify a person knowledgeable and experienced in the application of erosion prevention and sediment control BMPs" who will oversee implementation. The Minnesota CGP is viewable at <http://www.pca.state.mn.us/water/water-types-and-programs/stormwater/construction-stormwater/construction-stormwater.html#spermit>. The advantage of this approach in multiple operator situations, according to the group recommending this modification, is that the owner and the site designer are required to be integrally involved in developing SWPPPs that comply with the CGP requirements. It has been the experience of some general contractors that on especially large transportation and commercial construction projects, where the contract is awarded to the lowest bid, and the site design may have been developed without sufficient regard for stormwater management and CGP compliance, it is very difficult to then later develop a SWPPP that complies with the permit, but conflicts with the site plans. The result of these conflicts can be that the owner and the general contractor are forced to negotiate changes to the site plan, which arguably should have been part of the original design.

The proposed CGP, as well as the 2008 CGP, does not specify which party is responsible for SWPPP development in multiple operator situations. EPA requests comments on the

recommendation to require that the owner be responsible for SWPPP development. If you are in favor of such a modification, please specify how this would benefit the type of construction activities in which you are involved. EPA also requests comments on how this approach would work with residential developments, where the owner may be relying exclusively on his/her general contractor to develop site plans that comply with all relevant permits, including the CGP.

8.1.3. Requirement to Develop SWPPP Prior to Submitting Your NOI.

You are required to develop your site's SWPPP prior to submitting your NOI. If you prepared a SWPPP for coverage under a previous version of this NPDES permit, you must review and update your SWPPP to ensure that this permit's requirements are addressed prior to submitting your NOI. For emergency-related construction activities eligible for permit coverage under Part 1.3.2, the SWPPP must be developed within 7 days of submitting your NOI.

8.2. SWPPP CONTENTS.

Your SWPPP must include the following information, at a minimum.

8.2.1. Stormwater Team.

Each operator, or group of multiple operators, must assemble a "stormwater team," which is responsible for overseeing the development of the SWPPP, any later modifications to it, and for compliance with the requirements in this permit.

The SWPPP must identify the personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities. Each member of the stormwater team must have ready 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.

8.2.2. Nature of Construction Activities.

In order to understand the measure(s) you will undertake to control discharges, the SWPPP must describe the nature of your construction activities, including size of the property (in acres) and the total area expected to be disturbed by the construction activities (in acres), including areas dedicated for onsite and off-site borrow and fill areas, and the maximum area expected to be disturbed at any one time.

8.2.3. Identification of Other Site Operators.

The SWPPP must include a list of all other operators who will be engaged in construction activities at your site, and the areas of the site over which each operator has control.

8.2.4. Sequence and Estimated Dates of Construction Activities.

The SWPPP must include a description of the intended sequence of construction activities, including a schedule of the estimated start dates and the duration of the activity, for the following activities:

- 8.2.4.1 Flagging or marking off of no disturbance areas, including all steep slope areas (see Part 2.1.1.1) and buffers (see Part 2.1.2), and of setbacks for pollutant-generating activities (see Part 2.3.2);
- 8.2.4.2 Installation of stormwater control measures, and when they will be made operational;

- 8.2.4.3 Commencement and duration of earth-disturbing activities, including clearing and grubbing, mass grading, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
- 8.2.4.4 If applicable, dates when total disturbances occurring at one time will require compliance with the numeric turbidity limit in Part 3.2;
- 8.2.4.5 Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;
- 8.2.4.6 Final or temporary stabilization of areas of exposed soil. The dates for stabilization must reflect the applicable deadlines to which you are subject in Part 2.2.1.3 or Part 2.2.1.4; and
- 8.2.4.7 Removal of temporary stormwater conveyances/channels and other stormwater control measures, removal of construction equipment and vehicles, and cessation of any pollutant-generating activities.

8.2.5. Site Map.

The SWPPP must contain a legible site map or series of maps showing:

- 8.2.5.1 Boundaries of the property and of the locations where construction activities will occur, including:
 - a. Locations where earth-disturbing activities will occur, noting any phasing of construction activities;
 - b. Approximate slopes before and after major grading activities. Note areas of steep slopes (i.e., greater than 15 percent) both before and after grading;
 - c. Locations where sediment, soil, or other construction materials will be stockpiled;
 - d. Locations of structures and other impervious surfaces upon completion of construction; and
 - e. Locations of off-site construction support activities.
- 8.2.5.2 Locations of all waters of the U.S., including wetlands that exist within or in the immediate vicinity of your site. Indicate which waterbodies are listed as impaired, and which are identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 waters;
- 8.2.5.3 Areas protected by buffers (i.e., either the 50-foot buffer or other buffer areas retained on site) consistent with Part 2.1.2. The site map must show the boundary line of all such buffers;
- 8.2.5.4 Topography of the site, existing vegetative cover (e.g., forest, pasture, pavement, structures), and drainage pattern(s) of stormwater and authorized non-stormwater flow onto, over, and from the site property before and after major grading activities;
- 8.2.5.5 Stormwater discharge locations, including:
 - a. Locations of any inlets to municipal separate storm sewer systems (MS4s); and

- b. Locations where stormwater discharges and/or authorized non-stormwater are discharged to waters of the U.S. (including wetlands).
- 8.2.5.6 Locations of all potential pollutant-generating activities identified in Part 8.2.8 below;
- 8.2.5.7 Locations of stormwater control measures;
- 8.2.5.8 If applicable, sampling locations if the project is subject to the Part 3 numeric turbidity limit and/or to the benchmark sampling requirements in Part 4.2.2.1. For linear projects, indicate the sampling location(s) and all discharge points, and indicate which sampling locations are considered "substantially identical", in accordance with Part 3.3.3.4; and
- 8.2.5.9 Locations where any non-stormwater specifically allowed under Part 1.4.1.4 will be discharged.

8.2.6. Site Planning Documentation.

- 8.2.6.1 **Steep slope disturbances.** If avoiding disturbance to such steep slopes is considered infeasible, or inconsistent with the requirements of the project, you must document how you intend to comply with the Part 2.1.4.2 requirements applicable to steep slope disturbances.
- 8.2.6.2 **Native topsoil disturbances.** If disturbance to native topsoil is necessary, you must document how you intend to comply with the Part 2.1.3.5 requirements applicable to stockpiling and reapplication of the removed native topsoil.
- 8.2.6.3 **Buffer establishment.** If you are required to comply with Part 2.1.2 because a water of the U.S. is located on or immediately adjacent to your site, and you choose to implement the buffer alternative in Part 2.1.2.1b or 2.1.2.1c, you must include the documentation described in Appendix M.

8.2.7. Compliance with Impaired Waters and Antidegradation Requirements.

If you are subject to the requirements in Part 4.2.2 due to the fact that your site discharges to an impaired water, or to a water identified as Tier 2, Tier 2.5, or Tier 3 by your state, tribe, or EPA, you must specifically document how you will comply with these specific requirements.

8.2.8. Construction Site Pollutants.

The SWPPP must identify all pollutants that you expect to be found at your site and that could be discharged from the site. The SWPPP must also list and describe the activities that are expected to generate these pollutants (or "pollutant-generating activities"). You must provide the following documentation in order to demonstrate your compliance with the permit requirements:

- 8.2.8.1 **Pollutant-generating activities at the site.** The SWPPP must include a list and description of all the pollutant-generating activities on your site. Examples of pollutant-generating activities include, but are not limited to: paving operations; concrete, paint, and stucco washout and waste disposal; solid waste storage and disposal; and dewatering operations.
- 8.2.8.2 **Pollutants.** For the areas identified in Part 8.2.5.6 above, the SWPPP must include an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers and/or pesticides, paints, solvents, fuels) that will be exposed to rainfall, snowmelt, or authorized non-stormwater on your site, and discharged

from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges. You must also document any departures from the manufacturer's specifications for applying fertilizers containing nitrogen and phosphorus, as required in Part 2.3.4.1.

8.2.9. Non-Stormwater Discharges.

In addition to identifying the locations of non-stormwater discharges on the site map, as required in Part 8.2.5.8, the SWPPP must also identify all allowable sources of non-stormwater discharges listed in Part 1.4.1.4, and describe the measures taken to comply with the requirements in Part 2.1.3.1d to route non-stormwater discharges to sediment controls.

8.2.10. Description of Stormwater Control Measures.

- 8.2.10.1 **Stormwater control measures to be used during construction activity.** The SWPPP must describe all stormwater control measures that are or will be installed and maintained at your site to meet the requirements of Part 2 and, if applicable, Parts 3 and 4 (if applicable) requirements of this permit. For each stormwater control measure, you must include a description of:
- a. The type of stormwater control measure to be installed and maintained;
 - b. If you are using sediment basins or other impoundments, and it is infeasible to utilize outlet structures that withdraw water from the surface, consistent with Part 2.1.4.4a, document why you believe this to be the case;
 - c. If it is infeasible for you to direct discharges from your stormwater controls to vegetated areas of your site consistent with Part 2.1.3.1b, document why you believe this to be true;
 - d. If you will use polymers, flocculants, or other treatment chemicals to treat your stormwater, copies of jar test reports or other documentation provided by the chemical supplier or laboratory indicating the chemical formulations to be employed and the dosage or application rates, as well as copies of the Material Safety Data Sheets (MSDS) for the treatment chemicals;
 - e. Description of the locations on the site where polymers, flocculants, or other treatment chemicals will be applied, the periods of construction activity during which chemical treatments will be applied, and expected duration of the chemical treatments;
 - f. The name of the operator(s) or stormwater team member responsible for installation and maintenance of these control measures; and
 - g. Any manufacturer's specifications for installation or maintenance.
- 8.2.10.2 **Stabilization practices.** The SWPPP must describe the specific vegetative and/or non-vegetative practices that will be used to achieve temporary and final stabilization on the exposed portions of your site as required in Part 2.2.

8.2.11. Pollution Prevention Procedures.

The SWPPP must describe procedures for the following activities:

8.2.11.1 **Spill prevention and response procedures.** The SWPPP must describe procedures that you will follow to prevent and respond to spills and leaks consistent with Part 2.3, including:

- a. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or title 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 2.3.3 and established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available.

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 onsite and make it available for review consistent with Part 2.4. Note: 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.

8.2.11.2 **Procedures for the clean-up of sediment.** The SWPPP must describe procedures for:

- a. Sweeping or removal of sediment and other debris that has been tracked or deposited onto streets and other paved surfaces;
- b. Removal of sediment or other pollutants that have accumulated in or near any sediment control measures, stormwater conveyance channels, storm drain inlets, or water course within or immediately outside of the construction site; and
- c. Removal of accumulated sediment that has been trapped by sediment control measures, in accordance with the maintenance requirements in Part 2.1.3.3b, and if applicable Parts 2.1.4.5 and 2.1.4.6.

8.2.11.3 **Waste management procedures.** The SWPPP must describe procedures for how you will handle and dispose of all wastes generated at your site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

8.2.12. Procedures for Inspection, Maintenance, Corrective Action, and Monitoring.

8.2.12.1 **Inspection, Maintenance, and Corrective Action.** The SWPPP must describe the procedures you will follow for conducting site inspections, conducting routine maintenance activities for stormwater control measures, and, where

necessary, taking corrective actions, in accordance with Part 2.1.3.3a and the maintenance requirements in Part 2.3, Part 5, and Part 6 of the permit, respectively, including:

- a. Personnel responsible for conducting inspections;
- b. How this personnel will be notified when a storm event that meets the minimum 0.25 inch requirement for conducting inspections has occurred or is occurring;
- c. Specific schedules to be followed for conducting inspections and routine maintenance, including any higher frequency inspections consistent with Parts 2.1.4.2c and 4.2.2.2;
- d. Any inspection or maintenance checklists or other forms that will be used; and
- e. Specific procedures for taking corrective action in accordance with Part 6.

8.2.12.2 **Monitoring (if applicable).** If the discharges from the project are subject to the numeric turbidity limits in Part 3 or the benchmark monitoring requirements in Part 4.2.2.1, the SWPPP must document the procedures you will follow for taking samples consistent with Part 3.3 of the permit, including:

- a. Locations where samples will be collected. For linear projects, document which locations are considered substantially identical under Part 3.3.3.4, and why they are substantially identical;
- b. Personnel responsible for taking and handling samples, analyzing samples for turbidity, and recording the results;
- c. The normal working hours associated with the project (see Part 3.3.1.3);
- d. Equipment to be used for taking samples and for analysis;
- e. Procedures to be followed for ensuring that samples are taken in compliance with Part 3.3; and
- f. Procedures for notifying and activating your sampling team when a discharge is occurring or is expected to occur.

8.2.13. Training.

The SWPPP must describe how you will comply with the training requirements in Part 7, including:

- 8.2.13.1 How the training will be conducted (e.g., who will conduct the training, where it will take place);
- 8.2.13.2 What members of the stormwater team or what positions will receive training; and
- 8.2.13.3 Approximate dates of training.

8.2.14. Documentation to Support Eligibility Considerations Under Other Federal Laws.

8.2.14.1 **Documentation Regarding Endangered Species.** The SWPPP must include documentation supporting your determination with respect to Part 1.3.1.5 and Appendix D.

8.2.14.2 **Documentation Regarding Historic Properties.** The SWPPP must include documentation supporting your determination with respect to Part 1.3.1.6 and Appendix E.

8.2.15. SWPPP Certification.

You must sign and date your SWPPP in accordance with Appendix L, Part L.11.

All modifications made to the SWPPP consistent with Part 8.4 must be authorized by a person identified in Appendix L, Part L.11.b

8.2.16. Post-Authorization Additions to SWPPP.

Once you are notified of your coverage under this permit, you must include the following documents as part of your SWPPP:

8.2.16.1 A copy of your NOI submitted to EPA along with any correspondence exchanged between you and EPA related to coverage under this permit;

8.2.16.2 A copy of the acknowledgment letter you receive from the NOI Processing Center or eNOI system assigning your permit tracking number; and

8.2.16.3 A copy of this permit (an electronic copy easily available to SWPPP personnel is also acceptable).

8.3. ON-SITE AVAILABILITY OF YOUR SWPPP.

You are required to keep a current copy of your SWPPP at the site or at an easily accessible location, such as a downloadable file, so that it can be made available at the time of an onsite 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. (Note: 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 include employees of other executive branch agencies, who may review CBI during the course of reviewing draft regulations.)

If an onsite 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.

8.4. REQUIRED SWPPP MODIFICATIONS.

8.4.1. You must modify your SWPPP, including the site map(s), in response to any of the following conditions:

8.4.1.1 Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, stormwater control measures, pollution prevention measures 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 6. You do not

need to modify your SWPPP if the estimated dates provided for Part 8.2.4 change during the course of construction;

- 8.4.1.2 To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
- 8.4.1.3 If inspections or investigations by site staff, or by local, state, tribal, or federal officials determine that SWPPP modifications are necessary for compliance with this permit;
- 8.4.1.4 Where EPA determines it is necessary to impose additional requirements on your discharge, the following must be included in your SWPPP:
 - a. A copy of any correspondence describing such requirements; and
 - b. A description of the stormwater control measures that will be used to meet such requirements.
- 8.4.1.5 To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater control measures implemented at the site; and
- 8.4.1.6 If applicable, if a change in chemical treatment methods is made, including use of a different treatment chemical, different dosage or application rate, or different area of application.

8.4.2. Log of SWPPP Modifications.

You are required to maintain a log showing the dates of all SWPPP modifications. The log must include the name of the person authorizing each change (see Part 8.2.15 above) and a brief summary of all changes.

8.4.3. Deadlines for SWPPP Modifications.

You must complete required revisions to the SWPPP within 7 calendar days following the occurrence of any of the conditions listed in Parts 8.4.1.

8.4.4. Required Notice of Other Operators.

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.

9. HOW TO TERMINATE COVERAGE

Until you terminate coverage under this permit, you are required to 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 9.

9.1. MINIMUM INFORMATION REQUIRED IN NOT.

You will be required to provide the following in your NOT:

- 9.1.1. NPDES permit tracking number provided by EPA when you received coverage under this permit;
- 9.1.2. Basis for submission of the NOT (see Part 9.2);
- 9.1.3. Operator contact information;
- 9.1.4. Name of project and address (or a description of location if no street address is available); and
- 9.1.5. NOT certification.

9.2. CONDITIONS FOR TERMINATING PERMIT COVERAGE.

You may terminate permit coverage only if one of the following conditions occurs at your site:

9.2.1. **You have completed all earth-disturbing activities at your site and, if applicable, construction support activities permitted under Part 1.1, and you have met the following requirements:**

- 9.2.1.1 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;
- 9.2.1.2 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;
- 9.2.1.3 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;
- 9.2.1.4 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;
- 9.2.1.5 You must identify who is responsible for ongoing maintenance of any stormwater controls left on the site for long-term use following your termination of permit coverage; or

9.2.2. 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

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

9.3. SUBMIT NOTS THROUGH ENOI SYSTEM.

The NOT template you are required to complete is found on EPA's electronic NOI system, or "eNOI", at www.epa.gov/npdes/eNOI. You are required to use the eNOI system to prepare and submit your NOT, unless your EPA Regional Office specifically authorizes you to use a paper NOT form. You will use your NOI tracking number (i.e., the EPA number you were assigned upon authorization under the permit) to upload the fillable NOT form, which will ensure that EPA properly records your termination of coverage.

9.4. DEADLINES FOR SUBMITTING NOTS.

You must submit your NOT within 30 days after any one of the triggering conditions in Part 9.2 occur.

9.5. EFFECTIVE DATE OF TERMINATION OF COVERAGE.

Your authorization to discharge under this permit terminates at midnight of the day that a complete NOT is processed and posted on EPA's website (www.epa.gov/npdes/noisearch).

10. PERMIT CONDITIONS APPLICABLE TO SPECIFIC STATES, INDIAN COUNTRY LANDS, OR TERRITORIES

Note: This part of the permit will be completed as the states, Indian Country lands, and U.S. territories complete their Section 401 certifications for this permit.