

K. CONSTRUCTION

K1. Who and What are Regulated?

1a. Who is responsible for applying for a construction storm water permit?

The operator is responsible for applying for the permit as required by 40 CFR 122.21(b). The operator is the person who has operational control over construction plans and specifications, and/or the person who has day-to-day supervision and control of activities occurring at a construction site. In some cases, the operator may be the owner or the developer; in other cases the operator may be the general contractor; in some cases both entities will be considered operators. Some States require a single entity, usually the land owner or easement holder, to be the permittee for a given construction project. Other States and EPA require all relevant entities to obtain permit coverage, as co-permittees, for a given construction project. Contact your permitting authority for clarification on who must apply.

1b. What are the responsibilities of subcontractors at the construction site under storm water construction general permits?

Subcontractors may have no permit-specified responsibilities, or may be required to implement the measures stated in the pollution prevention plan and to certify that he/she understands the terms and conditions of the permit requirements. Generally, subcontractors are not required to submit NOIs. Permittees may develop their own sets of requirements for subcontractors as a way of ensuring that permit conditions are be met. You must contact your permitting authority for clarification on subcontractor requirements.

1c. Is there a difference in permit requirements for large and small construction activities?

The permit requirements are not different for projects less than 5 acres and those larger than 5 acres. ALL sites 1 acre and larger (or less than 1 acre, but part of a larger common plan of development or sale) are subject to the same construction storm water permit requirements. However, depending on decisions made by the permitting authority, small sites (those less than 5 acres) may be eligible for permit waivers, or may not need to submit an NOI.

1d. Do construction activities at facilities already covered under an NPDES permit (such as a wastewater treatment plant) need storm water coverage for construction activities?

Yes. Facilities engaging in construction activities need coverage under a construction storm water permit, unless all the storm water requirements are included in a facility's existing NPDES permit.

1e. If you are building a large retention basin and it will not discharge to waters of the U.S. do you need a permit?

If the basin exceeds 1 acre in size you will need coverage under a construction storm water permit for the construction activities, regardless of whether the basin itself is designed for post-construction releases. If post-construction the basin is associated with industrial activities, and you have a release or a potential for a release, for example with a 100-year storm to waters of the United States, you must have coverage under a storm water industrial permit. If the basin is associated with a regulated MS4, there may be additional permit requirements.

1f. Is routine maintenance considered a construction activity needing a permit?

40 CFR, Section 122.26 (15) (i) states that storm water discharges from construction activity do not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

1g. Does clearing for fire hazard minimization require a construction permit?

An existing fire break that is being maintained would be routine maintenance, and would not need storm water permit coverage. However, creating a new break or reducing fuels (clearing dead trees and under story) is considered construction, and must have permit coverage.

1h. What is the difference between road maintenance and road construction?

Road construction is the initial development and disturbance to build or expand or enhance the road, whereas maintenance is the upkeep of the road.

1i. Is re-paving of roads a construction activity?

Re-paving is not regulated under the storm water program unless one or more acres of underlying and/or surrounding soil are cleared, graded or excavated as part of the re-paving operation.

1j. Does dirt road decommissioning need to be covered by a construction permit?

If the dirt road decommissioning includes activities such as clearing, grading, and excavating, then a permit is needed for any site disturbing more than 1 acre of land.

1k. If a city is conducting construction activity, does it need a permit?

The city is subject to permit requirements for all projects disturbing 1 acre or more of land, and would also be responsible for ensuring that its own local erosion and sediment control requirements are enforced.

1l. If a city constructs a storm drain pipe system that disturbs 1 or more acres, is it subject to permit requirements?

Yes, this activity would be considered construction. Work performed on an existing storm drain system, however, would be considered maintenance and would not require a permit.

1m. If a homeowner or builder creates a construction-related discharge within a development, is the developer responsible for it, or the homeowner or builder?

This depends upon how the permitting authority has structured the permitting accountability, and who holds permit coverage.

1n. Are there any construction activities that are exempt from permit coverage?

Construction activities less than 1 acre are exempt, unless they are associated with a common plan of development or sale.

1o. Are Superfund remediation activities exempt from construction permit requirements?

Under Superfund, an operator must meet the requirements of all Federal programs, but does not have to apply for a permit.

1p. Does the construction category only include construction of industrial buildings?

No, any construction activity, including clearing, grading, and excavation, that results in the disturbance of one acre or more of land (or less than one acre if included in a larger common plan of development or sale) must obtain permit coverage.

1q. Do Federal storm water regulations for construction activity require control of storm water discharges after construction?

No. A construction storm water permit is intended to regulate construction site runoff during construction rather than after final stabilization is achieved. The construction storm water permit does not authorize post-construction storm water discharges which originate from the site after construction activities have been completed. Other regulations (Federal industrial or municipal storm water regulations; State or local regulations) may regulate post-construction storm water discharges.

1r. What agricultural activities are exempt from construction storm water regulations, and which would need permit coverage?

As stated in 40 CFR 122.3(e), pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest

lands, but not CAFOs, are exempt under the storm water regulations. This exemption does not extend to the construction of buildings. Construction of any building that disturbs 1 acre or more of agricultural or agriculture-related operations must obtain coverage under a construction permit for storm water discharges.

1s. Is clearing of lands specifically for agricultural purposes regulated construction activity under the storm water program?

No, although the clearing of land may be greater than one acre, any amount of clearing for agricultural purposes is not considered an industrial activity under the storm water regulations. Section 402(l)(1) of the 1987 Water Quality Act exempts agricultural storm water discharges from NPDES permitting requirements including storm water permitting. This exemption only applies, however, if the clearing of land is solely for agricultural purposes.

1t. If a construction activity that disturbs one acre or more commences on a site covered by an existing industrial storm water permit, are the storm water discharges from the construction area covered by the existing permit or is a separate permit required?

Industrial storm water permits do not cover construction activities. If the existing industrial permit is an individual permit, then the operator must either request a modification of the existing permit to include the construction storm water discharges or apply for coverage under a separate permit that specifically addresses that construction activity. If the permittee decides to modify the existing individual permit, permit modifications must be approved prior to initiating any construction activity. If the existing permit is a storm water industrial general permit, the operator should submit an NOI for coverage under a storm water general permit for construction activities.

1u. Are long-term maintenance programs for flood control channels (such as vegetation removal) or similar roadside maintenance programs subject to permitting if one or more acres are disturbed?

If grading, clearing or excavation activities disturb one or more acres of land, either for an individual project or as part of a long-term maintenance plan, then the activity is subject to storm water permit application requirements.

1v. For a construction activity that uses off-site “borrow pits” for excavation of fill material or sand and gravel, should the number of disturbed acres at the borrow pit be added to the number of acres at the construction site to determine the total number of disturbed acres?

Yes, off-site borrow pits that are utilized for the removal of general fill material (e.g., dirt) are considered part of the “larger common plan of development” and must be addressed by the SWPPP. Where the same operator uses an off-site location to support construction activities at

multiple sites, permit coverage may be obtained by identifying the site and including controls for this common site in at least one of the SWPPPs for the individual construction projects.

However, if a borrow pit is specifically used for the removal of materials such as sand, gravel, and clay, the pit is considered a mine and is classified under SIC code 14. Such sites would be regulated as industrial activity as defined at 40 CFR 122.26(b)(14)(iii).

1w. Is demolition considered a construction activity?

Yes. Demolition activities that disturb one or more acres of land are subject to storm water construction permit application requirements.

K2. Larger Common Plan of Development or Sale

2a. What is meant by a “larger common plan of development or sale?”

A “larger common plan of development or sale” is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to storm water permitting requirements if the smaller plots were included on the original site plan.

2b. Under what size restrictions does the larger common plan of development or sale stipulation come into play?

A permit is required if 1 or more acres of land will be disturbed, regardless of the size of any of the individually-owned or developed sites.

2c. Under Phase II is the 5-acre threshold gone?

No. Anything between 1 and 5 acres, or less than 1 acre, but part of a larger common plan of development or sale that exceeds 1 acre is considered small construction. Permit requirements between large and small construction do not vary. However, small construction activities may be eligible for permit waivers. Some permitting authorities may also opt to not require NOIs for small construction, although those projects must still comply with all permit requirements.

2d. If a contractor has permit coverage as part of a larger common plan of development or sale, when the project is done does a Notice of Termination (NOT) need to be filed by this individual operator?

An NOT needs to be filed for each permitted section of a larger common plan of development or sale corresponding to the NOIs that were submitted for that project.

2e. Are two projects on contiguous parcels, managed and operated by two separate entities, considered to be part of a larger common plan of development or sale?

If there is documentation that the two projects operate separately, they would be considered two separate developments, rather than a larger common plan of development or sale. If, however, there is documentation or an announcement (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, etc.) that the projects operated as a single unit of development they would be considered part of a larger common plan of development or sale.

2f. If there are several road projects going on at the same time that are under the same owner and are being constructed under common specifications, and are contiguous but widely distributed, are they considered to be a larger common plan of development or sale?

Generally these projects would be considered a common plan of development. Linear construction projects like roads and pipelines are frequently “widely distributed,” but still must have permit coverage. Extenuating circumstances may be left to the judgement of the permitting authority.

2g. If a developer has 4 acres and sells off a ½ acre lot to another developer, does the new developer need a permit even though that lot is less than 1 acre?

Yes, because the ½ acre lot is part of a larger common plan of development or sale that is larger than one acre.

2h. What is a larger common plan of development or sale at a facility like a university or military base? Is any construction considered to be part of the “larger common plan” or is there some sort of break point where unrelated projects at different parts of the facility can be considered separate plans of development? How would this be related to projects undertaken by cities where different road projects can be separate plans?

The “plan” in a larger common plan of development or sale is broadly defined as any announcement or documentation or physical demarcation indicating that construction activities may occur on a specific plot of land. On a military base or university the same criteria would apply. The fact that the entire military base or university is owned by one entity is not the

controlling factor. Similarly, unrelated road projects within a given city would not be considered common plan projects.

K3. Storm Water Pollution Prevention Plan (SWPPP)

3a. Are Storm Water Pollution Prevention Plan (SWPPP) required for construction projects between 1 and 5 acres?

Yes, SWPPPs are required for all sites under the NPDES construction storm water program component.

3b. Do EPA or other permitting authorities approve construction Storm Water Pollution Prevention Plans (SWPPPs)?

EPA and many permitting authorities do not approve SWPPPs. A few State permitting authorities do approve SWPPPs prior to authorizing permit coverage. The SWPPPs must be maintained on site during the life of the construction activity, available to contractors, other site staff, and to EPA, State or local officials to use SWPPPs as part of the compliance inspection process. Permitting authorities often review and comment on SWPPPs during compliance and enforcement proceedings.

3c. Who determines if a SWPPP is adequate?

The construction operator is responsible for developing an adequate SWPPP, using guidance provided by the permitting authority. Compliance inspections are also conducted to determine SWPPP adequacy.

3d. How often do construction SWPPPs need to be reviewed?

There is no time-line set forth in the NPDES storm water regulations for SWPPP review. The review frequency should be based on scheduled inspections and identified needs such as changes in operations. The CGP requires that SWPPPs be revised whenever a changes in design, construction method, operation, or maintenance procedure occurs.

3f. Do SWPPPs require annual reporting?

No, SWPPPs developed for construction sites do not include annual reporting requirements.

3g. Are Best Management Practices (BMPs) supposed to be identified in the SWPPP?

Yes, the SWPPP should describe all proposed BMPs. If they are not implemented immediately, it should identify when and under what circumstances they will be used.

3h. What if you don't know what BMPs you are going to use, can you leave them out of the SWPPP?

No. The SWPPP would not be complete without identification of BMPs, nor should you commence construction activities until you have identified all necessary BMPs. Your SWPPP should be updated whenever you make modifications to your BMPs.

3i. What discharge location inspection requirements apply to limited access areas, especially those associated with linear construction?

Under EPA's CGP, Section 3.10.E recognizes that, in certain limited circumstances, not all discharge locations will be accessible without damaging existing storm water controls and/or stabilization practices and, thus, a complete site inspection may not be practicable. In those instances, inspection personnel must inspect nearby downstream locations to the extent such inspections are practicable in order to assess the effectiveness of the erosion control measures as identified in the SWPPP. In some instances, visually inspecting from an assessable location (e.g., using binoculars from road crossings or edges of parking lots or interior roads) may be appropriate for physically inaccessible portions of the site. This practicability standard also may be applied to linear construction inspections (Section 3.10.F.), which already limit inspections to 0.25 miles above and below site access points. In those instances where an inspection may cause further environmental impacts (e.g., compromising temporarily or permanently stabilized areas, requiring vehicles to cross creeks, wetlands, or other sensitive topography, etc.), compromise the inspection personnel's safety, or present other impracticabilities, the inspection personnel may consider nearby downstream (or overlook point) inspections and document the particular impracticability preventing such inspections 0.25 miles above and below such access point. Documentation of each inspection should identify those areas that were inspected, and how, and the reasons why any portions of the site were deemed to be inaccessible.

K4. Stabilization

4a. What is a stabilized gap in time?

A stabilized gap in time is a period of time during which construction activities have ceased and the entire site is stabilized, however future construction activity is planned and so permit coverage remains active.

4b. How is the term *final stabilization* defined under the storm water program?

The 2003 CGP defines "final stabilization" as follows:

1. All soil disturbing activities at the site have been completed and either of the two following criteria are met:
 - a. a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

b. equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

2. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent ($0.70 \times 0.50 = 0.35$) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.

3. In arid and semi-arid areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:

a. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by you,

b. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

4. For individual lots in residential construction, final stabilization means that either:

a. The homebuilder has completed final stabilization as specified above, or

b. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

5. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “water of the United States,” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) or (3) above.

4c. During a permitted construction project, once the unstabilized portion of a site totals less than 1 acre, must permit coverage be maintained?

Yes. The permit requirements remain in effect until construction activities are complete, appropriate stabilization has been achieved, and a Notice of Termination (NOT) has been filed.

K5. Compliance and Enforcement

5a. What if a private citizen believes that a construction site is discharging to a local stream? Can the private citizen ask the construction site operator for a copy of the Storm Water Pollution Prevention Plan (SWPPP)?

Operators do not have to provide SWPPPs to citizens, although they are certainly encouraged to do so. The operator does have to provide the SWPPP to the permitting authority upon request. The citizen should inform the permitting authority of the probable violation of the construction storm water permit. SWPPPs may be requested from the permitting authority by anyone under the Freedom of Information Act.

5b. What can a citizen do if the permitting authority does not require the construction operator to bring a discharge into compliance?

A citizen suit can be filed if the owner does not have a permit and should have; if they are not complying with the terms of their SWPPP, or the SWPPP is not adequate to protect water quality.

K6. Waivers

6a. Are construction waivers available?

Waivers are not available for construction activity disturbing five acres or greater, but regulated construction activity disturbing less than five acres are potentially eligible for waivers. There are 3 types of waivers available to construction activities on 1-5 acres: (1) Rainfall Erosivity Waiver, (2) Total Maximum Daily Load (TMDL) Waiver, (3) Equivalent Analysis Waiver. Not all permitting authorities offer all 3 waivers. You should check with your permitting authority to determine if, and under what conditions, these waivers may be available. EPA's provides for all three. Details are available in Appendix D of the CGP.

6b. If a site smaller than 5 acres is located in a desert area where it almost never rains, is it always exempt from storm water permitting requirements?

No. The R- factor is not based only on rainfall amount; it is also based on rainfall intensity, season, and soil type.

6c. If a sediment Total Maximum Daily Load (TMDL) has been approved for the watershed, how could a small construction site qualify for a waiver?

It is not likely that construction activities would qualify for a waiver in this situation. However, the waiver may be based on the following: (1) There is low predicted rainfall potential (i.e., construction activity occurs during a negligible rainfall period), where the rainfall erosivity factor is less than 5 during the period of construction; or (2) The TMDL determined that construction storm water controls were not necessary. In some cases, a construction site that discharges to waters that are the subject to an approved sediment TMDL might be more appropriately covered by an individual construction permit.

6d. For purposes of the Total Maximum Daily Load (TMDL) waiver, how can modeling accurately reflect the potential impact of sediment without consideration of BMPs?

In applying for the Total Maximum Daily Load (TMDL) waiver, an applicant would have to be conservative and assume no BMPs.

6e. With respect to a waiver, is there any type of a qualifier or consideration of receiving waters? A small amount of erosion runoff into a salmon spawning stream would be different than more erosion runoff into a seasonal pond on a piece of flat farm property.

The revised universal soil loss equation (RUSLE) does not include a factor for receiving water impacts, but the permitting authority has the discretion to suspend the waiver in circumstances such as protection of high quality or sensitive waters.

K7. Notice of Termination (NOT)

7a. How does a storm water permitted construction operator terminate coverage?

To terminate permit coverage the operator must submit a Notice of Termination (NOT) to the permitting authority. A permittee may submit an NOT when:

- Disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed (or will be removed at an appropriate time),
- Storm water discharges from construction activities have been eliminated, or
- The permittee is no longer an operator of the site.

Some State permitting authorities may have other criteria. Please consult your permitting authority for additional guidance.

7b. If the construction activity extends beyond the term of the general permit, does a Notice of Termination (NOT) have to be submitted or is there an automatic termination? If a site has been left unfinished for 7-8 years, is the fact that the permit expired enough to qualify as termination?

If the permit expires before construction is complete, the permittee must file an NOI for coverage under the new general permit. In States where NOT submittal is required (including where EPA is the permitting authority), an NOT must be submitted when the project is completed or abandoned. Expiration of the general permit is not analogous to permit coverage termination.

7c. After completion of the construction project is there a deadline to submit a Notice of Termination (NOT)?

No. There is no specified deadline for submittal of the NOT. However, it would be in the construction permittee's best interest to submit the NOT as soon as possible after construction is completed and final stabilization achieved, so that permit requirements, such as regular inspections, no longer need be carried out.

7d. For storm water management BMPs, where the BMP is meant to be a permanent feature of the site, when should the NOT be submitted?

The installation and stabilization of the BMP would be covered under the construction permit concluding with the submission of a Notice of Termination (NOT) when the site, including the BMP, meets the final stabilization criteria as defined in the permit.

K8. General

8a. What is the purpose of the 7-day review period for the construction Notice of Intent (NOI)?

EPA will not authorize coverage under the Construction General Permit (CGP) until 7 days after the NOI has been received by the NOI Center. The 7-day review period is for the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services) to review the project for potential impacts to threatened or endangered species or critical habitat, per the Endangered Species Act. If one of the Services notes a potential impact, it will notify EPA, who will delay authorization until the Service and the construction site operator can resolve the concern. In some cases, a proposed project will be reviewed by EPA for potential water quality concerns. If the Services or EPA note no problems, CGP authorization will be automatically granted at the end of the 7th day.

8b. Do you have to receive a response on your NOI before proceeding with your project?

Some States require notification from the permitting authority prior to commencement of construction activities. Operators obtaining coverage from EPA may not initiate any clearing grading or other construction-related activities until the 7 day waiting period for Endangered Species Act reviews has passed. Operators may view the commencement and completion of this waiting period on EPA's NOI website.

8c. Is there a design standard for post-construction storm water BMPs?

There is not a general Federal standard for post-construction storm water BMPs. There are often State or local design standards. EPA requires that storm water discharges permitted under the NPDES program meet water quality standards, but does not stipulate specific design standards for individual BMPs.

8d. When restoring the runoff water quality to pre-development conditions, does this mean immediately before grading starts, or historically?

Pre-development is considered to be the condition of the site right before construction. While this is not a regulatory requirement (it is a "recommendation"), the permittee should attempt to recover pre-development conditions where possible. States can require a greater degree of

restoration, especially since pre-development hydrologic conditions are often already notably altered or impaired.

8e. Are construction activities required to be in compliance with National Environmental Policy Act (NEPA) requirements before an operator submits a Notice of Intent (NOI)?

All documentation has to be reviewed and approved before the NOI is submitted, including the Storm Water Pollution Prevention Plan (SWPPP) and ESA/NHPA certification. For Federal facilities or construction activities using Federal funding, compliance with NEPA is required when initiating a new source review. NEPA provisions do not apply to State issued permits.

8f. Will some construction projects need individual permits?

This decision may be made by the permitting authority on a case by case basis. Individual permits may be issued if there is discharge to impaired waters, or where there is a numeric waste load allocation. Most storm water dischargers from construction activities will be covered under general permits.

8g. If a construction activity that disturbs less than one acre occurs on site of a regulated industrial activity, currently covered by EPA's industrial storm water general permit, does the regulated industry have to modify its pollution prevention plan to include controls for the area of construction?

Yes. Regulated industrial activities, covered by EPA's storm water industrial general permit, must revise their pollution prevention plan to address all new sources of pollution and runoff on site, including those from construction activities. However, if less than one acre of land is disturbed, a separate storm water permit for the construction activity is not required.

8h. For projects such as a 100-mile highway construction project, what location should be provided on the NOI?

For EPA permits, the midpoint of a linear construction project should be used as the site location on the NOI form. For construction projects that span across more than one State, the project must meet the application requirements of each State. States may have different requirements for stipulating project location; please consult the relevant guidance.

8i. Who is responsible for completing the inspection report on construction projects?

The operator, or NPDES permit holder, or his or her authorized agent is responsible. See CFR 40, Section 122.21(b).

8j. How often does the construction operator need to inspect practices on site?

EPA's CGP 2003 requires inspections: (1) at least once every 7 calendar days, or (2) at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. Inspection frequency may be reduced to at least once every month if (1) the entire site is temporarily stabilized, (2) runoff is unlikely due to winter conditions, or (3) construction is occurring during seasonal arid periods in arid and semi-arid areas.

Some States have different and/or more stringent inspection requirements. You should consult with your permitting authority to determine your inspection requirements.

8k. What is the duration of an NPDES permit issued for a construction activity?

Construction permits, like other NPDES permits, are effective for 5 years. If the construction activity continues beyond the five year permit term, the owner/operator must apply for coverage under a new permit.

If the permit expires before a replacement permit can be issued, the permit will be administratively "continued." A permittee is automatically covered under the continued permit, without needing to submit anything to EPA until the earliest of: the permit being reissued or replaced; submittal of a NOT; issuance of an individual permit; the Director issuing a formal decision to not reissue the permit at which time coverage must be sought under an alternative permit.

8l. Do storm water construction general permits authorize non-storm water discharges?

EPA's CGP allows for the following non-storm water discharges, provided that the discharges meet all permit requirements:

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

Other types of discharges must obtain coverage under another NPDES permit.

States may have different requirements, and should be consulted to determine if non-storm water discharges can be authorized under a construction storm water general permit.