

MARYLAND DEPARTMENT OF THE ENVIRONMENT
GENERAL PERMIT FOR STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY
General NPDES Permit Number MDR10
State Discharge Permit Number 08GP

EFFECTIVE DATE: March 31, 2008 EXPIRATION DATE: DECEMBER 31, 2008

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PART I. COVERAGE UNDER THIS PERMIT

A. **Permit Area.** This permit covers all areas of the State of Maryland.

B. **Eligibility.**

1. This permit will cover all new and existing stormwater discharges that are composed in whole or in part of discharges associated with construction activity [as defined by 40 Code of Federal Regulations (40 CFR), Section 122.26 (b)(14)(x); see Part VII, Definitions]. This permit is not an alternative for and does not take the place of a local grading permit, erosion and sediment control plan approval, or stormwater management plan approval by the county or municipality that has jurisdiction.

2. **Facilities with a permit for a different discharge.** Stormwater discharges associated with construction activity at facilities which have a permit for a discharge other than stormwater can be covered by this general permit, an alternative general permit, or, at the discretion of the Director, an existing individual permit may be amended to cover stormwater discharges associated with construction activities.

C. **Requiring an Individual Permit or an Alternative General Permit.**

1. The Director may require any person authorized by this permit to apply for and obtain either an individual permit or coverage under an alternative general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any person authorized to discharge under this permit to apply for an individual permit or obtain coverage under an alternative general permit only if that person has been notified in writing that such a change is required. This notice shall include:

- (a) a brief statement of the reasons for this decision;
- (b) a statement setting a deadline for the person to file an application for an individual permit or a file a Notice of Intent (NOI) in accordance with the terms of the alternative general permit;
- (c) a permit application if applicable; and
- (d) a statement that on the effective date of the individual permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate.

The Director may grant additional time to submit the application or NOI upon request of the applicant. If the person so notified fails to submit in a timely manner an individual permit application or an NOI for coverage under an alternative general permit as required by the Director under this paragraph, then the individual permittee's coverage under this permit is automatically terminated at the end of the day specified in the Director's notification.

2. Any person authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit or filing an NOI for coverage under an alternative general permit. The person seeking an individual permit shall submit an individual application in accordance with the United States Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) regulations, with reasons supporting the request to the Director. The person seeking coverage under an alternative general permit shall file an NOI in accordance with the terms of the alternative general permit. A request for an individual permit shall be granted if the reasons cited by the applicant are adequate to support the request. If the applicant seeks coverage under an alternative general permit, the terms of that permit will determine whether coverage under the alternative general permit is obtained.

3. When an individual permit is issued to a person otherwise covered by this permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit. Similarly, when a person subject to this permit obtains coverage under an alternative general permit, the applicability of this permit is terminated on the effective date of the alternative general permit. When an individual permit is denied to an applicant otherwise covered by this permit, or the applicant is denied coverage under the terms of an alternative general permit, the applicability of this general permit to the permittee may be terminated by MDE.

D. **Authorization.** A person planning construction activity must submit an NOI, at least 48 hours prior to any land disturbing activities, in accordance with the requirements of Part II of this permit to be authorized to discharge stormwater under this general permit. Unless notified by the Director to the contrary, persons who submit such notification are authorized to discharge stormwater associated with construction activity under the terms and conditions of this permit.

E. **Transfer of Authorization.**

1. **Transfer of control of permitted activities at the site.** A person submitting an NOI who does not intend to control the permitted activities on the site will transfer authorization under this permit, at least 48 hours prior to any land disturbing activities, to a duly authorized person who will control the permitted activities. The transfer shall become effective upon receipt by the Administration of a completed Transfer of Authorization form, signed by both the transferor and transferee. Should the permittee decide to transfer authorization under this permit during the construction period, written notification (as outlined above) must occur immediately.

2. **Transfer of property to a new owner.** A permittee may transfer coverage under this general permit to a new owner should ownership change during the construction period. The transfer shall become effective upon receipt by the Administration of a completed Transfer of Authorization form, signed by both the transferor and transferee.

3. **Obligations of the permittee.** The permittee ("transferor") must familiarize the person who is assuming control of the permitted activities ("transferee") or the new owner, in the case of an ownership change, with the program and provide the transferee/new owner with a copy of this general permit. All conditions and obligations outlined in this general permit will apply to the new permittee/owner upon transfer.

Part II. NOTICE OF INTENT REQUIREMENTS

A. **Deadlines for Notification.**

1. **For construction activity beginning on or after March 31, 2008.** Persons who intend to obtain coverage for a stormwater discharge associated with construction activity under this general permit shall submit an NOI in accordance with the requirements of this Part at least 48 hours prior to any land disturbing activities.

2. **For construction activity beginning prior to, and continuing past, March 31, 2008 and currently covered under permit 03-GP.** Permittees whose projects are currently covered under 03-GP will remain covered for the area indicated on the initial NOI until the termination of the project. An additional phase or phases of multi-phased project not currently covered under the existing NOI can be added to the initial NOI by paying the additional fees associated with the activity.

3. Persons who obtain coverage under this general permit shall, prior to commencing construction, obtain approved erosion and sediment control plans in accordance with the requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); and in Code of Maryland Regulations (COMAR) 26.17.01 (Erosion and Sediment Control); and shall obtain approved stormwater management plans in accordance with the requirements established in Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and in COMAR 26.17.02 (Stormwater Management).

B. **Application.** The applicant shall submit to the Administration an NOI to be covered under this general permit. The NOI will constitute application and must be accompanied by the appropriate fee required by the Administration and established in State regulations to be considered complete. A discharger may submit an NOI form in accordance with the requirements of this Part after the applicable deadline. In such instances, an enforcement action for any stormwater discharges associated with the construction activity occurring prior to notification may be taken.

C. **Failure to Notify.** Persons who disturb earth as part of a construction activity and fail to notify the Director of their intent to be covered by an NPDES stormwater discharge permit, and discharge pollutants to waters of the United States without a permit, are in violation of the Clean Water Act (CWA). Persons who disturb one acre or more of earth and fail to notify the Director of their intent to be covered, and discharge pollutants to waters of the State are in violation of Section 4-413 and 9-322 of the Environment Article, Annotated Code of Maryland.

D. **Contents of Applications.** As stated in Part II. B. above, an NOI to be covered under this general permit will constitute application. The NOI shall include, but not be limited to, the following:

1. The site's name, mailing address, and general location;
2. The site's latitude and longitude (to the nearest 15 seconds) and Maryland Grid Coordinates (approximate center of the site);

3. The permittee's name and signature, address, telephone number, and principal contact;
4. A brief project description, including existing and proposed land uses;
5. Standard Industrial Classification (SIC);
6. The name of the eventual receiving waters (if the discharge is to a municipal separate storm sewer system, the name of the municipal system and the receiving waters shall be supplied);
7. The total site area, the total proposed disturbed area, the type(s) of stormwater management best management practice(s) (BMP) proposed, and the total drainage area to be controlled by each type of BMP; and
8. Permit number of any other NPDES Permit.

E. **Fees.** A one-time application fee is required with the initial submission of the NOI form. The fee schedule is based on the size of the total planned disturbance. The applicant should determine the appropriate fee to be paid from the fee schedule found on the NOI.

F. **Where to Submit.** Persons intending to discharge stormwater associated with construction activity must submit erosion and sediment control and stormwater management plans in accordance with procedures established in, and to the approving authorities identified in, the laws and regulations cited in Part II. A. of this general permit. Applications (NOIs) to be covered by this general permit shall be mailed to the Administration at the following address:

The Maryland Department of the Environment
Water Management Administration
P.O. Box 2057
Baltimore, Maryland 21203-2057

G. **Effective Date of Coverage.** Coverage under this general permit is effective upon receipt by the Administration of a completed application as outlined in Part II.D. above. The completed application (NOI form) must be accompanied by the appropriate fee as outlined in Maryland regulations and in Part II. E. above. The effective date for Transfer of Authorization shall be accordance with Part I.E. Coverage under this general permit will expire 5 years from the date coverage is issued to the project or until a Notice of Termination form has been completed and received by MDE. If a permittee elects to continue coverage beyond the 5-year period a Notice of Continuation of Coverage must be completed and received by MDE prior to the coverage expiration date.

H. **Notice of Termination.** Where a site has been finally stabilized and all stormwater discharges from construction sites that are authorized by this permit are eliminated, the authorized permittee of the facility must submit a Notice of Termination form.

1. The Notice of Termination shall include, but not be limited to, the following:

- (a) the mailing address and location of the construction site for which notification is submitted. Where a mailing address is not available, the location can be described in terms of the latitude and longitude (to the nearest 15 seconds) and Maryland Grid Coordinates of the approximate center of the facility;
- (b) the permittee's name, address, and telephone number;
- (c) the name, address, and telephone number of the general contractor(s);
- (d) the NOI identification number;
- (e) the following certification statement:

"I certify under penalty of law that disturbed soils at the identified site have been acceptably stabilized and temporary erosion and sediment controls have been removed or will be removed at an appropriate time and that all stormwater discharges associated with construction activity from this site that are authorized by this general permit have been eliminated. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge stormwater associated with construction activity by the general permit and that discharging pollutants in stormwater associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submittal of this Notice of Termination does not release the permittee from liability for any violations of this permit or the Clean Water Act which may have occurred at this site."

2. Notice of Termination forms will be available at local plan review offices. The completed Notice of Termination form should be sent to the Maryland Department of the Environment, Water Management Administration.

Part III. SPECIAL CONDITIONS

A. **Prohibition on Non-Stormwater Discharges.** All discharges covered by this permit shall be composed entirely of stormwater, except as provided in Part III. A.1. and Part III. A.2. Discharge of material other than stormwater must be in accordance with erosion and sediment control and stormwater management plans approved in accordance with the laws and regulations cited in Part II. A. above.

1. Discharges of material other than stormwater must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

2. The following non-stormwater discharges may be authorized by this permit provided the non-stormwater component is a discharge from: fire fighting activities; fire hydrant flushings; waters used to wash vehicles or control dust (provided this water usage is not excessive); irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters 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; air conditioning condensate; springs; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Other Requirements for Erosion and Sediment Control and Stormwater Management Plans.

1. All plans for construction activity and any reports prepared pursuant to this permit, including self-inspection information, shall be available to the public under Section 308(b) of the CWA. Upon request by the public, the permittee or person covered by this general permit shall make such documents available. However, the permittee may claim any portion of these documents as confidential in accordance with 40 Code of Federal Regulations (CFR) Part 2.

2. **Releases in Excess of Reportable Quantities.** In the unlikely event of a discharge of hazardous substances or oil in the stormwater discharge(s) from a construction site, such discharge shall be minimized in accordance with the approved erosion and sediment control and stormwater management plans. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24 hour period:

- (a) any person in charge of the construction site is required to notify the National Response Center (NRC) at 1-800-424-8802 or 202-267-2675 (in the Washington, DC metropolitan area), in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302 as soon as he or she has knowledge of the discharge;
- (b) additionally, the Maryland Department of the Environment must be notified between 8AM - 5PM at 410-537-3510, after hours at 410-537-3937;
- (c) the permittee shall submit within 7 calendar days of knowledge of the release an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with a written description of the circumstances leading to the release, the nature of the release, and steps to be taken. This application should be sent to the Maryland Department of the Environment, Water Management Administration;
- (d) the permittee shall, within 14 days of knowledge of the release, modify the existing erosion and sediment control and stormwater management plans to identify and provide for the implementation of steps to prevent and control similar releases in the future.

3. Discharges of hazardous substances and oil resulting from on-site spills are not authorized by this permit.

4. No condition of this general permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

Part IV. EFFLUENT LIMITATIONS, MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. **Effluent Limitations.** The Maryland Department of the Environment has not established specific effluent limitations for stormwater discharges associated with construction activity. Therefore, this general permit establishes effluent limitations in terms of performance standards associated with the Best Available Technology (BAT) for erosion and sediment control and stormwater management. Compliance with the BAT associated with the laws and regulations cited in Part II. A. of this general permit will constitute compliance with effluent limitations for stormwater discharges associated with construction activity.

B. **Monitoring and Records.** For the purposes of monitoring, permittees must do all the following:

1. During construction, maintain at the site the approved erosion and sediment control plan.
2. Conduct the following inspections at all sites covered by this permit, including active and inactive sites:
 - (a) weekly inspections of implemented erosion and sediment controls; and
 - (b) inspections of erosion and sediment controls the next day after a rainfall event resulting in runoff.
3. Maintain at the site written reports of all inspections conducted by the permittee that include:
 - (a) the date and time of the inspection;
 - (b) the name(s) of the individual(s) who performed the inspection;
 - (c) an assessment of the condition of erosion and sediment controls;
 - (d) a description of any erosion and sediment control implementation and maintenance performed; and
 - (e) a description of the site's present phase of construction.
4. Maintain all inspection reports and enforcement actions issued to the permittee by the appropriate enforcement authority.
5. Permittees must retain the records described in Part IV. B. 1., 3., and 4. and records of all data used to complete the NOI to be covered by this permit for a period of three (3) years from the date that the site is finally stabilized.

C. **Reporting Requirements.** Reporting requirements for the purposes of this general permit will involve submitting, upon request by MDE, the information maintained in accordance with Part IV. B. to:

The Maryland Department of the Environment
Water Management Administration
Compliance Program
1800 Washington Blvd, Ste 420
Baltimore, Maryland 21230-1708

Part V. STANDARD PERMIT CONDITIONS

- A. **Duty to Comply.** It is a condition of this permit that the permittee comply with erosion and sediment control and stormwater management plans approved in accordance with the laws and regulations cited in Part II. A.3, above, and with all conditions of this general permit. Note that MDE is currently revising regulations in accordance with the Stormwater Management Act of 2007, which became effective on October 1, 2007, to require that environmental site design (ESD) through the use of nonstructural best management practices and other better site design techniques be implemented to the maximum extent practicable. Violations of plans for construction activity constitute violations of this permit, State law, and the CWA. Violations of this permit are grounds for enforcement action; for permit termination, revocation, reissuance, or modification; or for denial of a permit renewal.
- B. **Continuation of Coverage Under This General Permit.** Once construction has commenced, it is a condition of this permit that erosion and sediment control and stormwater management plan approvals be kept in effect. Construction activity may not continue if these plans have expired, but may resume once plans are renewed without payment of an additional fee.
- C. **Continuation of the Expired General Permit.** An expired general permit continues in force and effect until a new general permit is issued. Only those permittees authorized to discharge under the expiring general permit are covered by the continued permit.

- D. **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.
- E. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize the environmental impact caused by any discharge allowed by this general permit.
- F. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance requires the installation and operation of backup, auxiliary, or similar systems or controls, by a permittee when necessary to achieve compliance with the conditions of the permit.
- G. **Duty to Provide Information.** The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine compliance with this permit. The permittee shall also furnish to the Director upon request copies of records required to be kept by this permit, State law, or the CWA.
- H. **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in plans approved in accordance with the laws and regulations cited in Part II. A., he or she shall promptly submit such facts or information to the Director or the appropriate plan review authority.
- I. **Certification.** Any person signing documents under this section shall provide certification in accordance with the laws and regulations identified in Part IV. J below.
- J. **Signatory Requirements.** All submissions of reports, certifications or information shall be signed in accordance with requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); COMAR 26.17.01 (Erosion and Sediment Control); Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and COMAR 26.17.02 (Stormwater Management). All Notices of Intent shall be signed as follows:
1. For a corporation: by a responsible corporate officer;
 2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
 3. For a municipality, State, federal, or other public agency: by either a principal executive officer or a duly authorized official.
- K. **Liabilities Under Other Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA, any applicable State law, or regulation under authority preserved by section 510 of the CWA.
- L. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- M. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- N. **Transfers.** This permit is not transferable to any person except after notice to the Director in accordance with Part I. E. above. The Director may require separate application for an individual permit as stated in Part I. C.

O. **Inspection and Entry.** The permittee shall allow the Director or an authorized representative of EPA or the State who is assigned responsibilities in the laws and regulations cited in Part II. A., upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and obtain copies at reasonable times, any records that must be kept under the conditions of this permit; and
3. Inspect at reasonable times, without prior notice, any construction site, facility, or equipment (including monitoring and control equipment).

P. **Criminal Penalties for Falsification of Reports.** Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 2 years, or by both. Section 9-343(b) of the Environment Article, Annotated Code of Maryland, provides for a fine, upon conviction, of \$10,000.00 or imprisonment for not more than 6 months.

Q. **Criminal Penalties for Falsification of Monitoring Systems.** The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in Section 309 of the CWA. Section 9-343(b) of the Environment Article, Annotated Code of Maryland, provides for a fine, upon conviction, of \$10,000.00 or imprisonment for not more than 6 months.

R. **Criminal Penalties for Violations of Permit Conditions.**

In addition to the criminal penalties established in Title 4, Subtitles 1 and 4, and in Title 9, Part V. of the Environment Article, any person who violates any condition of this permit is subject to the following criminal penalties under the CWA:

1. Negligent Violations: The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both;

2. Knowing Violations: The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or both;

3. Knowing Endangerment: The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

S. **Civil Penalties for Violations of Permit Conditions.** In addition to the civil penalties established in Title 4, Subtitles 1 and 4, and in Title 9, Part V. of the Environment Article, any person who violates any condition of this permit is subject to a civil penalty not to exceed \$25,000.00 per day of such violation, as well as any other appropriate sanction provided by section 309 of the CWA.

T. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VI. REOPENER CLAUSE

If there is evidence indicating potential or realized impacts on water quality due to any stormwater discharge associated with construction activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or alternative general permit coverage in accordance with Part I. C. of this permit or the permit may be modified to include different limitations and requirements. Permit modification or revocation will be conducted according to COMAR 26.08.04.10.

Part VII. Authority to Issue General NPDES Permits

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section 402 of the federal Clean Water Act, 33 U.S.C. Section 1342.

On September 30, 1990, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a general permit program.

Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.


Jay Sakai, Director
Water Management Administration
MAR 31 2008

VIII. DEFINITIONS

"Administration" means The Maryland Department of the Environment, Water Management Administration.

"Construction Activity" means clearing, grading and excavating activities that results in a land disturbance equal to or greater than one acre, including the disturbance of less than one acre of land that is part of a larger common plan of development or sale that will ultimately disturb more than one acre.

"CWA" means Clean Water Act or the Federal Water Pollution Control Act or the Amendments to the Clean Water Act.

"Director" means the Regional Administrator, the Secretary of the Maryland Department of the Environment, or an authorized representative.

"Larger common plan of development or sale" means an area where multiple separate and distinct construction activities are occurring under one plan. The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.

"Person" is as defined in COMAR 26.17.01 (Erosion and Sediment Control) and COMAR 26.17.02 (Stormwater Management).

"Project" means the total area upon which construction activity will occur through stages or phases over time.

"Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

"Stormwater Associated with Construction Activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to clearing, grading, and excavation activities.