



# Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's environment for the benefit of current and future generations



Matt Mead, Governor

John Corra, Director

**FACT SHEET**  
**State of Wyoming**  
**LARGE CONSTRUCTION GENERAL PERMIT**  
**for**  
**Storm Water Discharges**  
**Associated with Large Construction Activities**  
 (Permit WYR100000)  
 Renewal

Changes to the draft permit.

*Changes to the draft permit as a result of comment received are noted below in italics. References to comment numbers refer to specific comments in the "Responses to Comments Received" document that was prepared in conjunction with the issuance of the renewed Large Construction General Permit (LCGP).*

*Barb Sahl  
May 18, 2011*

Introduction

This general permit will replace the current permit which was issued in 2006 and will expire March 15, 2011. This permit regulates storm water discharges from all construction activities that disturb five or more acres. Also covered are discharges from smaller construction activities if they are part of a larger common plan of development or sale that will ultimately disturb five or more acres. Storm water discharges from small construction activities (disturbance of one to five acres) are covered under a separate permit called the small construction general permit (WYR10-A000).

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## Background

Congress amended the CWA in 1987 to establish a comprehensive framework for addressing storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. On November 16, 1990, the Environmental Protection Agency (EPA) published "Phase 1" regulations requiring all storm water discharges associated with industrial facilities, including construction projects where five or more surface acres are disturbed, to obtain NPDES permits. In Wyoming the program is known as the Wyoming Pollutant Discharge Elimination System or WYPDES. Wyoming storm water regulations are found in the Wyoming Water Quality Rules and Regulations, Chapter 2. WYPDES storm water permits require the operator to minimize or eliminate pollutants, including sediment, in storm water runoff from the permitted facility.

## General Permits

A "tool" which can be used to issue a large number of permits with a relatively small administrative burden, is the "general permit." Under the general permitting approach, a single generic permit is issued to cover a large number of similar discharges within a geographic area. Since 1992 the DEQ has authorized more than 4300 construction projects to discharge storm water under general permits. At this time, there are over 1100 active large construction sites covered under the current permit.

## Discharges Covered

DEQ will be issuing this new general permit to dischargers of storm water associated with large construction activities. Specifically, this permit will cover storm water discharges from any clearing, grading or excavation project which will disturb five or more (not necessarily contiguous) surface acres and smaller disturbances which are part of a larger common plan of development or sale. Discharges of storm water from associated asphalt batch plants, concrete batch plants, and sand and gravel operations may be covered by this permit under the limited conditions described in Part 1.2.2 of the permit. Construction site dewatering of collected storm water and minor amounts of ground water may also be discharged under this permit provided the requirements of Part 7.13 are met. Discharges of **process** water from asphalt and concrete batch plants and sand and gravel operations **cannot** be authorized by this permit. Non-storm water discharges require coverage under another WYPDES permit.

## Obtaining Coverage

Under the permit, "operators" who are required to obtain a WYPDES permit to discharge storm water must prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit it along with a Notice of Intent (NOI) to the DEQ 30 days before beginning construction activities. The SWPPP describes potential pollution sources and the best management practices (BMPs) which will be used to prevent storm water contamination. The NOI describes the construction project and route(s) that storm water may take from the construction site to surface waters of the state. DEQ reviews the NOI to determine if the operator may discharge storm water under the general permit, or if an individual WYPDES permit is required.

For those facilities that may discharge storm water to class 1 waters, a pre-authorization site visit may be required prior to covering the project.

## Permit Requirements

Operators covered under this permit ensure, through implementation of the facility SWPPPS, that storm water discharges from their facility do not cause a violation of state surface water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations. Furthermore, storm water discharges shall not cause pollution, contamination or degradation to waters of the state.

Operators are required to periodically inspect the BMPs they use to minimize offsite transport of pollutants. The results of inspections must be documented and, if necessary, changes made to site BMPs to address deficiencies in pollutant removal.

Coverage must be continued by the operator until the construction site is “finally stabilized.” Final stabilization means that areas of the construction site that do not have permanent structures such as buildings or roads must be revegetated with perennial vegetation to a uniform 70% of natural background cover. For example, a disturbed area where the normal vegetative cover is 50% must be revegetated to a uniform cover of 35%; (70% of 50%).

## Notable Changes from the Previous Permit

A number of changes and clarifications have been made to the permit with the goal of improving compliance in the field. A summary of notable changes is provided below.

- The definition of “finally stabilized” now specifies that vegetation must be adaptable to site conditions (Part 2.8).
- The previous definition of “operator” included companies, individuals or organizations that have day-to-day supervision and control of activities occurring at the construction site. This permit expands that definition to include those companies, individuals or organizations that have the ability to modify project plans and specifications related to the SWPPP. For example, where a contractor does not have the authority or resources to make project modifications that are necessary to protect surface waters of the state, the owner of the project may be considered the “operator” (Part 2.10).
- A definition of “reportable quantity” has been included to help operators know when a spill must be reported to the WDEQ (Part 2.11). *This paragraph was modified to make it more consistent with Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 4 (comment 9).*
- A definition of the section 303(d) list has been added to the permit. Section 303(d) of the CWA requires that states identify and list waters which are not attaining designated uses, such as drinking water, fishery or aquatic life uses. The state’s 303(d) list also identifies the pollutants that prevent attainment of designated uses. The permit now requires operators to know when storm water discharges from their site may reach a surface water of the state that is listed on the “section 303(d) list” as impaired where the cause of the impairment is sediment, suspended solids or turbidity, all common pollutants from construction sites. Operators are expected to take any necessary additional measures to protect waters impaired by sediment, suspended solids or turbidity (Part 2.12). *A link to a new interactive map – currently under construction was added to this paragraph (comment 10).*

- Waters that are listed on the state's 303(d) list must have a Total Maximum Daily Load (TMDL) developed for each pollutant contributing to the impairment(s). Where there are approved TMDLs for sediment, suspended solids or turbidity, a project SWPPP must be consistent with the assumptions, allocations and requirements in the TMDL (Parts 1.3.6, 2.21 and 8.2.2.9).
- Contents of the Notice of Intent (NOI) have been expanded to include additional information. New information requirements and other changes are the following (Part 3.5):
  - Specific contact information for the permittee (a legally responsible person), local contact (familiar with the facility) and a fee contact (who will receive an invoice for the annual permit fee).
  - A section has also been added allowing the permittee to designate a "duly authorized representative" on the NOI who can sign SWPPPs and inspection reports. In the past, such a designation require a separate letter to the WDEQ. This section of the NOI eliminates that extra step. Subsequent changes to the authorized representative will still require a brief letter.
  - Information relating to "common plans of development or sale," where applicable, is now required.
  - The NOI must now identify any potential storm water discharges to waters with an approved TMDL (for sediment, suspended solids or turbidity) or that are listed on the state's 303(d) list due to sediment, suspended solids or turbidity.
  - Potential discharges to class 1 waters must be noted.
  - All SWPPPs must be submitted before the NOI will be processed. Not all SWPPPs will be reviewed, though they will all be made available to inspection staff. Language has been added to make it clear that issuance of a Letter of Authorization under the LCGP does not imply that the permittee's SWPPP is "approved" by DEQ. The submittal requirement is for new applications only; not for renewing permittees.
  - WDEQ encourages SWPPPs to be submitted electronically either by e-mail ([to deq-stormwater@wyo.gov](mailto:deq-stormwater@wyo.gov)) or on a CD or DVD.
  - *Paragraph 3.5.11 in the draft permit required that any water listed as impaired or that has an approved TMDL for sediment, turbidity and suspended solids be identified in the NOI if it is within 2000 feet of the construction project and likely to receive discharges from the project. The paragraph was modified to include those same waters at any distance from the construction project if construction-related storm water discharges to a storm sewer system that, itself, discharges to such a water (comment 17)*
- *Continuation of coverage under the new permit, paragraph 3.11. Automatic temporary coverage under the new permit will be effective until August 9, 2011. The deadline to renew is now July 9, 2011.*
- The permit now allows for partial transfers of the permit to new operators. Where a transfer is partial, the new operator will be assigned a new authorization number. With full transfers, the existing authorization number will transfer to the new operator (Part 4). Transferring permittees must provide the new permittee with copies of the facility SWPPP and certain inspection records.

*This part has been modified to allow submission of an NOTA within 14 days before or after a transfer occurs, increasing the allowed window to apply for a transfer from 14 days to 28 days. A reminder that the WDEQ may choose to take an enforcement for NOTAs that come in outside of that window was also added. Additional language was added to inform permittees that WDEQ provides confirmation of a transfer in writing to both parties involved in the transfer (comment 20).*

*Paragraph 4.5 also requires only 12 months of inspection records to be provided the new permittee, instead of requiring all inspection records be transferred (comment 21).*

- The discussion of annual permit fees has been updated to reflect the statutory change that modified the billing year from the state fiscal year to a calendar year. Language has been added to further clarify that fees will continue to accrue until the authorization is no longer active. (Part 6)
- The section formerly named “Additional Terms and Conditions” has been renamed “Effluent Limits” and expanded. The expansion is due, in part, to the requirements of new federal regulations and, in part, to address deficiencies that have been noted in the field over the last five years.
  - Part 7.3 sets minimum standards for erosion and sediment control. It comes directly from new federal regulations.
  - Recovery of offsite sediment has been modified to require removal of sediment transported offsite where it is necessary to minimize offsite impacts. Where such removal is deemed necessary removal must occur within seven days or prior to the next precipitation event, whichever is sooner (Part 7.5). *In response to comments received, additional language has been added to clarify when sediment removal may take longer than seven days and when it may be beneficial to stabilize sediment in place (comments 28 and 29). This paragraph was also modified to apply to offsite sediment, except that which is tracked on to paved surfaces. Tracking onto paved surfaces is covered in paragraph 7.7 (comment 89)*
  - Part 7.6 adds a requirement to protect storm drain inlets. This section does not necessarily require BMPs in inlets. Protection may occur above the inlet. If inlet protection is infeasible, then additional onsite erosion and sediment control must be implemented to compensate for the loss of protection at or above the inlet. Inlet protection should be the last line of control and not a primary control.
  - Part 7.7 requires permittees to address offsite tracking of sediment to paved areas. Where egress BMPs prove to be inadequate the permittee must arrange for sweeping or scraping of paved areas where necessary. *Language was added to clarify that sediment must be removed within 24 hours. This is consistent with Appendix C, 2.2.*
  - Parts 7.8, 7.9, 7.10, 7.11 and 7.12 encourage, but do not require, the use of sediment ponds and basins on construction sites. These sections give general guidance for the design and implementation of ponds or basins. Additional guidance is presented in Appendix C of the permit.
  - Part 7.14 requires operators to immediately initiate permanent or temporary stabilization of disturbed areas where earth disturbing activities have stopped either permanently or won't resume for at least 14 days. This section is based on new federal regulations. *Concerns were raised over narrow, linear projects where disturbed areas may be needed as access to other parts of the construction site and for on-going work that is not related earth disturbance, such as for pipeline*

- *initiation of stabilization, not the completion of stabilization (comment 37).*
  - Parts 7.15.1, 7.15.2 and 7.1.4 are based on new federal regulations and address pollution prevention from operations such as washing, materials storage and fuel handling. There are no new requirements in this section, however, the language is more explicit as to expectations with the covered activities.
  - Part 7.18 is an expanded section addressing prohibited discharges. None of the prohibitions are new with this permit, but they are addressed more explicitly. *In paragraph 7.18.1, the term “grindings and slurry” was removed (comment 39).*
  - Part 7.19 addressing construction site sanitary facilities has an added requirement to ensure portable toilets are staked appropriately to prevent blow over or tipping by vandals. *The word staked was replaced with secured to allow alternative means of securing portable toilets (comment 40).*
  - Part 7.20 has been modified to acknowledge that posting the project Letter of Authorization (LOA) is not always practical and may, in some cases, pose a safety risk to the public. Where posting the LOA at the construction site is impractical due to site conditions or is unsafe (e.g., on a highway project), then the LOA need not be posted, but must be available for inspection by state, federal or local government officials.
- In an effort to improve SWPPP quality and provide more guidance to the permittee, requirements for the site storm water pollution prevention plan (SWPPP) have been clarified and expanded.
  - A statement defining the scope of the SWPPP has been added (Part 8.1.1). *Language clarifying that future phases of construction do not have to be included in the initial project SWPPP, if plans for that construction are not definite. This is expected to apply most frequently to such industries as oil and gas and multi-phase subdivision construction (comment 56).*
  - Joint SWPPPs between multiple permittees (e.g., various contractors working within a single subdivision) have always been allowed. This permit specifically states that they may be used and sets some minimum standards (Part 8.1.2)
  - A section has been added to assist permittees in identifying potential pollutant sources (Part 8.1.3).
  - *Permittees with coverage under the 2006-2011 permit will have until January 1, 2012 to update their SWPPPs to the new requirements (Part 8.1.4, comment 46).*
  - Where site inspections identify necessary changes to the SWPPP, those changes must now be made within 30 days of the inspection. (Part 8.1.5) *Language has been changed to increase the time allowed to 30 days (up from seven days) following an inspection to update a SWPPP (comment 47).*
  - If keeping the SWPPP on site is not practical it may be kept offsite. The permittee must inform the WDEQ by letter or e-mail of the location of the SWPPP and provide contact information for an individual with access to the SWPPP. The SWPPP must be made available to the WDEQ within 48 hours of a request (Part 8.1.6). *Language was modified in response to comments to allow SWPPPs to be kept offsite in more situations than was allowed in the draft permit (comment 49).*
  - SWPPP content requirements have been clarified and expanded. To make review more efficient, all SWPPPs must now conform to the format specified in Part 8.2. WDEQ will develop an on-line template for permittees to use. Use of the on-line

template is not required and permittees can develop their own SWPPP. However, SWPPPs that are incomplete or do not follow the required format will be returned and processing of the applicant's NOI may be delayed.

- *The Guidance paragraph (formerly 8.1.7) was renumbered 8.1.8. Paragraph 8.1.7, Plan Availability was inserted. Paragraph 8.1.7 requires that permittees must make their SWPPP and inspection reports available to representatives from WDEQ and officials from other local, state and federal government officials. This language has been in all previous versions of the permit and was inadvertently left out of this version (comments 48 and 50).*
- Part 8.2.1 requires that individuals identified as SWPPP Administrators be knowledgeable and experienced in the application of erosion and sediment control BMPs and the installation, inspection and maintenance of such controls.
- Requirements for the narrative portion of the SWPPP have been clarified to specifically include descriptions of dedicated support activities (materials sources, concrete or asphalt portable plants). Applicants must also identify any waters that may receive storm water discharges from the project that have an approved total maximum daily load (TMDL) for sediment, suspended solids or turbidity or that are listed as impaired on the state's 303(d) list due to sediment, suspended solids or turbidity (Part 8.2.2)
- *Paragraph 8.2.2.6 The requirement to provide information on soil erodibility was removed from the permit in response to comments received (comment 53).*
- *Paragraph 8.2.2.7 (8.2.2.8 in the draft permit) originally required that where storm water discharges are to an unnamed drainage the first, downstream named stream should be listed in addition to "unnamed drainage." Comment 54 suggested that all drainages within 2000 feet be listed. Upon consideration, WDEQ limited the listing of named drainages to those that are within 1000 feet downstream of the discharge.*
- Site map requirements (Part 8.2.3) have also been expanded and clarified. *The draft permit required a minimum of two maps. The first map was to represent pre-construction conditions. One or more additional maps were to show BMPs at each stage of construction. The final permit has been modified so that all required elements can be included on one map where practical (comment 56).* If additional maps are needed to clearly show BMPs at each stage of construction, then they must be provided. The WDEQ believes if "staging" of BMPs during the project is not clear in the SWPPP, then it is likely that BMPs will not be installed correctly or at the proper time to protect surface water quality.
- All existing and planned temporary BMPs must be noted in the SWPPP and located on the site map(s) (Part 8.2.3). Site maps must show all storm water outfalls and boundaries between different drainage areas. Site maps must be developed for the main project area as well as for all off-site support activities that will be covered under the permit. *Paragraph 8.2.3.9 (8.2.3.8 in the draft permit) was modified to clarify that off-site support operations need only be included in the facility SWPPP map(s) if they are to be covered under the same LCGP authorization as the covered construction project. Additionally, off-site materials sources, asphalt plants, concrete batch plants and other offsite activities that are covered under a separate WYPDES storm water permit do not need to be covered under the construction project SWPPP (comment 60).*
- As in the previous permit, Part 8.2.4 requires a narrative description of all proposed and existing BMPs. New with this permit is that all BMPs must, at a minimum conform to the minimum requirements provided in Appendix C; Pollution

- *Paragraph 8.2.4.4(b) also now requires a more thorough description of fuel handling practices, a description of minimum secondary containment requirements and a description of spill reporting procedures. Several commenters (comment 63) were concerned that this paragraph conflicted with, or preempted, existing fuel handling regulations under the federal Spill Prevention Control and Countermeasure (SPCC) regulations or similar regulations under the Wyoming Oil and Gas Conservation Commission (WOGCC). This permit has always and continues to allow permittees to reference in their facility SWPPP their fuel management plans under other programs and agencies. This paragraph was primarily intended for projects that do not fall under SPCC or WOGCC rules. Language was modified to make that clear.*
- *Paragraph 8.2.4.4(c) was modified to remove reference to the WDEQ Solid and Hazardous Waste Division (comment 65).*
- *Part 8.2.5 also requires a more thorough description of BMP maintenance practices and provides a time limit within which repair and maintenance activities must occur once an inspection identifies a deficiency.*
- *Paragraph 8.2.5.2 was modified to clearly indicate that inspection records must be maintained in accordance with Part 9.7 (comment 66).*
- *Inspection requirements (Part 9) have been clarified. Most specifically, the inspection records requirements have been modified to provide a clearer description of findings and resolutions to site BMP maintenance needs.*
  - *Paragraph 9.2.3 was added to clarify that inspections may be delayed beyond the 7, 14 or 30 day requirements when weather and field conditions make access inadvisable. Inspections must be conducted as soon as possible and the reason for any delay must be documented in the SWPPP (comment 68).*
  - *Language was added to 9.5 to describe the management of alternative inspection plans when a storm water permit is transferred or renewed (comment 70). Additional language was also added that makes it clear that WDEQ can review the plans, require changes when necessary and rescind approval of a plan that is ineffective.*
  - *Paragraph 9.7.5 was modified so that recording rainfall events of greater than 0.5 inches is only required for facilities that have chosen the 14-day inspection schedule described in 9.2.1.1 (comment 73).*
- *Part 10. Standard Permit Conditions*
  - *Paragraph 1.9 was modified to include information about the WDEQ online spill reporting form. A reference to Chapter 4 of the WWQRR was also added to assist the reader who wishes to gather more detailed information (comment 78).*
- *Two appendices have been added to the permit. Appendix B is a list of acronyms used in the permit. Appendix C provides minimum standards for BMPs, maintenance considerations and housekeeping procedures.*

- *Appendix C, 1.2 was removed as paragraph 7.14 adequately describes temporary and permanent stabilization requirements (comment 81).*
- *Appendix C, 1.4 (1.5 in the draft permit). WDEQ incorporated the suggested changes to clarify the original language describing required stabilization of drainage ditches on a permitted construction site. An additional paragraph was also added to provide information on what is meant by the term “complete stabilization” as it applies to such ditches (comment 82).*
- *Appendix C, 1.9 (1.8 in the draft permit). Language was added to clarify that the minimum requirement set forth for vegetative buffer strips applies only when the buffer is intended as a sole or primary BMP between the construction disturbance and a surface water of the state or a conveyance to a surface water of the state (comment 86).*
- *Appendix C, 2.1. Several commenters indicated that repairing BMPs within 24 hours was unreasonably difficult, particularly for remote, rural projects. Another commenter indicated that 24 hours was appropriate in a more urban setting. In an effort to accommodate the needs of disparate types of construction, WDEQ modified the requirement such that during active construction operators would be required to meet the 24-hour time limit as long as field conditions allow access. For inactive projects the permit will now allow a 14-window (or as field conditions allow) to effect required repairs (comment 87).*
- *Appendix C, 2.3. This paragraph, addressing removal of offsite sediment deposits, was removed. This topic is addressed adequately by 7.5 and 7.7 (no specific comment).*

### Effluent Limits

The permit does not establish numeric effluent limits. However, the permit does require that the quality of storm water discharges associated with construction activity reflect the best which is attainable through the proper implementation of all items in the facility SWPPP. Additionally, the control measures specified in the SWPPP shall be consistent with the narrative effluent limits found in Part 7 and ensure that storm water discharges from the facility do not cause a violation of state water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations.

### Location of Covered Discharges

The permit covers all areas within the State of Wyoming except areas within the Wind River Indian Reservation where the State does not have jurisdiction.

### Expiration

The proposed general permit will expire March 15, 2016.

Barb Sahl  
January 28, 2011