

Revised MPCA Construction Stormwater Permit

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Overview

On August 1, 2008, the revised Minnesota Pollution Control Agency (MPCA) general permit for the discharge of stormwater from construction sites became effective. This permit will replace an earlier general permit which will expire.

The revised general permit will apply to all construction sites greater than one acre in size. It also applies to smaller construction sites, if they are part of a larger construction plan, which is greater than 1 acre.

This briefing provides an overview of some of the requirements under the revised MPCA permit. Dischargers should review the general permit for specific information.

Who Needs to Apply?

All construction sites greater than one acre (or part of a larger development plan greater than one acre) need to have a permit to discharge stormwater.

Under the MPCA requirements, two parties need to be covered jointly under the permit - both the **OWNER** and the **OPERATOR**.

OWNERS who must apply for permit coverage are defined in three ways:

- The land owner (“*person or party processing title*”); or
- The lease holder, if land is held under a lease, easement, or mineral rights agreement; or
- The contracting government agency.

The **OPERATOR** is the person designated by the Owner who has “*day-to-day operational control and/or the ability to modify project plans and specifications*”. In most cases, the Operator will be the general contractor for the project.

Both the Owner and Operator hold the permit, and both are responsible for compliance with the requirements of the permit. In addition, permit coverage must be kept current - if new or additional Owners or Operators become involved, permit coverage needs to be revised.



Summary of Requirements

This section provides a summary of permit requirements that will apply to many, if not most, construction sites. However, depending on the precise location of the site, another set of requirements may also apply (see Page 3).

The following are some key requirements:

Stormwater Pollution Prevention Plan (SWPPP). The SWPPP will be the key document required to plan and document compliance with the permit requirements. The SWPPP must be completed before an application for permit coverage is submitted. The SWPPP must be available on-site and must be kept current, as changes to the construction plans are made.

The SWPPP must include specific site information, maps, as well as detailed descriptions of Best Management Practices (BMPs) to be used during the construction. It also needs to detail any **Permanent Stormwater Management System** to be left in place once construction is complete.

Training. The permit has specific requirements for training that needs to be provided to certain persons involved with the construction project. The persons required to be trained include:

- Persons preparing and/or revising the SWPPP
- Persons responsible for implementing the SWPPP
- Persons responsible for conducting inspections
- Persons responsible for installation & maintenance of BMPs

The content of training may vary with job duties; however, permittees must ensure that training is provided by individuals with expertise in erosion prevention, sediment control or permanent stormwater management.

Temporary Sediment Basins. Properly sized and constructed temporary sediment basins must be installed in areas where 10 or more acres of disturbed soil drain to a common location. For certain sites with documented limitations that make these basins not feasible, equivalent methods for sediment control can be installed.

Permanent Stormwater Management. If the final construction plan will ultimately replace **more than 1 acre** of existing vegetation or other pervious surfaces with impervious surfaces, a permanent stormwater treatment system must be included in the development plans. This system could include one or more of:

- Wet detention basins;
- Infiltration basins, which may require “pre-treatment” of stormwater to remove sediment;
- Use of regional ponds, with written approval by pond owner;
- Alternative methods, submitted to and approved by MPCA

Erosion Prevention Measures. In addition to normal erosion control measures, exposed soils must be stabilized within 14 days. Final Stabilization must be completed with 70%+ vegetative cover.

Sediment Control Measures. The site must also prevent sediment from being discharged to surface waters, protect storm drain inlets & control track out from vehicle traffic.

Pollution Prevention. The permit has requirements for the control of wastes and wastewater generated during construction, including:

- Control and proper disposal of solid and hazardous wastes;
- Proper storage and spill containment for hazardous materials & fuels;
- Containment and proper disposal of truck wash water, if any;
- Collection of concrete washout operations, if any, in leak-proof containment facility or impermeable liner, with proper off-site disposal.

Dewatering. All dewatering discharges should be pumped to the temporary or permanent stormwater basins, and visually inspected to assure adequate removal of sediment.

Additional Requirements for Projects Near Special Waters

Construction sites that are located within 1 mile of, and discharge to, one of the special waters (see inset to right) must comply with additional requirements. These include:

- Application for permit coverage and SWPPP must be submitted to MPCA at least 30 days prior to start of construction;
- During construction, exposed soils must be stabilized within 7 days;
- Temporary sediment basins must be installed at drainage points serving 5 acres or more of disturbed soil;
- After construction, the Permanent Stormwater Treatment System must treat at least 1 inch of run-off, with at least ½ inch being infiltrated, and pre-/post run-off rates and volumes can not be increased;
- A 100-foot buffer zone from water body must be maintained;
- For sites near trout streams, temperature control measures are required for discharges directly to the designated trout stream or to any of its tributaries.

Although not regulated as a “special water”, the permit also addresses discharges to wetlands. In addition to meeting all existing wetland regulations, construction sites must not cause significant adverse impacts to wetlands. Natural wetlands can not be used to satisfy permanent stormwater treatment requirements without an approved mitigation plan.

Linear Projects

Linear projects often present special issues in complying with stormwater discharge permit requirements. Linear projects are typically roadway construction, pipeline or utility construction projects. They will often be aligned on narrow easements or right-of-way corridors, and have limited options for construction of ponds, etc. to control stormwater discharges. These projects also have a higher probability of encroaching on special waters, wetlands, and may include stream crossings.

Because of the unique limitations of linear construction projects, the MPCA permit includes a few special considerations that might apply:

- Where temporary sediment basins are required, but are not feasible to install due to site limitations, equivalent sediment controls are required;
- Where permanent stormwater management practices are required, but are not feasible due to site limitations, other treatment such as grassed swales, smaller ponds or grit chambers is required. However, reasonable attempts to obtain required land needed to install the pond(s) normally required must be documented.

All other requirements of the permit apply equally to all projects, including linear projects.

What are “Special Waters”?

The MPCA permit has additional requirements for construction sites located within **1 mile** of:

Designated wilderness areas

Upper Mississippi River

Designated scenic or recreational river segments

Lake Superior

Designated trout lakes & streams

Designated scientific & natural areas

Listed impaired waters

(sediment-related impairments)

Site Inspections

The MPCA permit requires site inspections be conducted and documented on a scheduled basis. The permit requires:

1. One inspection at least every 7 days, and
2. One inspection within 24 hrs after each rainfall greater than 0.5 inches.

For portions of sites where construction is completed and permanent cover in place, inspections can be reduced to monthly. All inspections must be conducted by a **Trained Inspector**. Documentation of the Site Inspector training must be made available to MPCA upon request.

What If My Site Is Already Covered Under A Stormwater Permit or No Exposure Certification?

Some construction activities may occur on sites that are already subject to a stormwater discharge permit and have an existing SWPPP. In most cases, these will be industrial facilities or municipally-owned facilities subject to a general permit for industrial stormwater discharges.

Coverage under this construction stormwater permit will be required, **in addition to** the existing permit coverage. Construction activities subject to this permit are specifically excluded from industrial and MS4 stormwater permits.

For facilities exempted from stormwater permit requirements through a **NO EXPOSURE CERTIFICATION (NEC)**, all construction activities would also need to be in compliance with the NEC conditions. This would include restrictions on outside storage of construction wastes, building materials, fuels, etc.

Stormwater Permit Support for Owners & Operators

Caltha provides support to Owners and Operators to comply with general construction stormwater permits, including preparation of SWPPP documents, inspection forms, conducting SWPPP inspections, and identifying “special waters” requirements.

One of our key services is conducting periodic **THIRD PARTY INSPECTIONS** on behalf of Owners to evaluate compliance with permit requirements; these inspections are particularly useful for larger projects and projects in remote locations.

Regulatory Briefings are published periodically by Caltha to highlight new or proposed environmental, health & safety regulations. To receive these briefings in the future by email at no cost, sign up at the Caltha website.

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