Fact Sheet for IPDES Permit No. IDR100000

Idaho Department of Environmental Quality (DEQ) Proposes to Reissue an
Idaho Pollutant Discharge Elimination System (IPDES) Permit to Discharge Pollutants
Pursuant to the Provisions of IDAPA 58.01.25 to:

Operators of Construction Activities that meet the Eligibility Requirements of the Permit

Public Comment Start Date:	10/01/2021
Public Comment Expiration Date:	11/01/2021
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Purpose of this Fact Sheet

This fact sheet explains and documents the decisions the Idaho Department of Environmental Quality (DEQ) made in drafting the proposed Idaho Pollutant Discharge Elimination System (IPDES) permit for construction activities in Idaho.

This fact sheet complies with IDAPA 58.01.25.108.02 of the Idaho Administrative Code, which requires DEQ to prepare a draft permit and accompanying fact sheet for public evaluation before issuing an IPDES permit.

I. Introduction

This fact sheet provides information for the Idaho Department of Environmental Quality (DEQ) Idaho Pollutant Discharge Elimination System (IPDES) permit for operators of construction activities within the state of Idaho, outside of tribal lands. This fact sheet complies with the Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IDAPA 58.01.25), which require DEQ to prepare a draft permit and accompanying fact sheet for public evaluation before issuing an IPDES permit.

DEQ proposes to reissue the IPDES permit for operators of construction activities that meet the eligibility requirements of the permit, within the state of Idaho, outside of tribal lands. To ensure the protection of water quality and human health, the permit places conditions on the type, volume, and concentration of pollutants discharged from the facility to waters of the United States.

This fact sheet includes:

- a listing of effluent limits and other conditions operators must comply with;
- documentation supporting the effluent limits;
- technical material supporting the conditions in the permit; and
- information on public comment, public hearing, and appeal procedures.

Terms used in this fact sheet are defined in the permit's Appendix A, Definitions.

Public Comment

The draft permit and fact sheet describing the terms and conditions applicable to the permit are available for public review and comment during a public comment period. The public is provided at least 30 days to provide comments to DEQ (IDAPA 58.01.25.109.01.c). Persons wishing to request a public meeting for this permit must do so in writing within 14 calendar days of public notice being published that a draft permit has been prepared; requests for public meetings must be submitted to DEQ by October 15, 2021. Requests for extending a public comment period must be provided to DEQ in writing before the last day of the comment period (IDAPA 58.01.25.109.02). For more details on preparing and filing comments about these documents, please see the IPDES guidance *Public Participation in the Permitting Process* at "https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/". For more information, please contact the permit writer.

After the close of the public comment period, DEQ considers information provided by the public, prepares a document summarizing the public comments received, and may make changes to the draft permit in response to the public comments (IDAPA 58.01.25.109.03). DEQ will include the summary sheet and responses to comments in Appendix E of the final fact sheet.

The Environmental Protection Agency (EPA) may take up to 90 days from the publication of public notice of the draft permit to develop and document specific grounds for objections to a proposed permit. If EPA objects to a proposed permit, DEQ must satisfactorily address the objections within the time period specified in the memorandum of agreement between EPA and DEQ (40 CFR 123.44). Otherwise, EPA may issue a permit in accordance with 40 CFR 121, 122, 124. Within 90 days of receipt by DEQ of an objection by the EPA, DEQ or any interested

person may request that a public hearing regarding the objection (40 CFR 123.44; IDAPA 58.01.25.103.02).

Permit Issuance

Following the public comment period(s) on a draft permit and after receipt of any comments on the proposed permit from EPA, DEQ will issue a final permit decision, the final permit, and the fact sheet. All comments received will be addressed in Appendix A of the final fact sheet and any resulting changes to the permit or fact sheet will be documented. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit (IDAPA 58.01.25.107.04). The final permit and final fact sheet will be posted on the DEQ webpage. Response to comments will be located in the final fact sheet as an appendix.

Persons affected by an IPDES general permit may not file a petition or otherwise challenge the conditions of a general permit in further DEQ proceedings (IDAPA 58.01.25.204.27.a). Instead, they may do either of the following:

- Challenge the conditions in a general permit by filing an action in court; or
- Apply for an individual IPDES permit

Permit Issuance

The IPDES permit and fact sheet can be reviewed or obtained by visiting or contacting the DEQ State office between 9:00 a.m. and 5:00 p.m., Monday through Friday at the address below. The permit and fact sheet can also be found by visiting the DEQ website at "https://www.deq.idaho.gov/public-information/public-comment-opportunities/ ."

DEQ
1410 N. Hilton St.
Boise, ID 83706
208-373-0502

The permit and fact sheet are also available at the DEQ Regional offices:

Boise Regional Office 1445 N. Orchard St. Boise, ID 83706	Coeur d'Alene Regional Office 2110 Ironwood Parkway Coeur d'Alene, ID 83814
Idaho Falls Regional Office 900 N. Skyline Drive, Suite B Idaho Falls, ID 83402	Lewiston Regional Office 1118 "F" Street Lewiston, ID 83501
Pocatello Regional Office 444 Hospital Way #300 Pocatello, ID 83201	Twin Falls Regional Office 650 Addison Avenue West, Suite 110 Twin Falls, ID 83301

Disability Reasonable Accommodation Notice

For technical questions regarding the permit or fact sheet, contact the permit writer at the phone number or e-mail address at the beginning of this fact sheet. Those with impaired hearing or speech may contact a TDD operator at 1-800-833-6384 (ask to be connected to the permit writer

at the above phone number). Additional services can be made available to a person with disabilities by contacting the permit writer.

II. Background

The DEQ is proposing to reissue the IPDES Construction General Permit (2022 CGP) which authorizes the point source discharges of storm water and authorized non-storm water from construction projects. Once finalized, the 2022 CGP will replace EPA's 2017 CGP, which expires on February 16, 2022. This fact sheet describes the 2022 CGP being proposed. Once finalized, the 2022 CGP will be available to Operators in the State of Idaho where DEQ is the Clean Water Act (CWA) permitting authority.

1. Clean Water Act

Section 301(a) of the Clean Water Act (CWA) provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). The CWA defines "discharge of a pollutant" as "(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." 33 U.S.C. 1362(12). A "point source" is any "discernible, confined and discrete conveyance" but does not include "agricultural storm water discharges and return flows from irrigated agriculture." 33 U.S.C. 1362(14).

The term "pollutant" includes, among other things, "garbage… chemical wastes, biological materials …and industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. 1362(6).

One way a person may discharge a pollutant without violating the section 301 prohibition is by obtaining authorization to discharge (referred to herein as "coverage") under a section 402 NPDES (IPDES in the case of DEQ) permit (33 U.S.C. 1342). Under section 402(a)(1), EPA (or DEQ in Idaho) may "issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a)" upon certain conditions required by the Act.

Prior to the Water Quality Act of 1987, there were numerous questions regarding the appropriate means of regulating storm water discharges within the NPDES program due to the serious water quality impacts of storm water discharges, the variable nature of storm water, and the large number of storm water point sources. EPA undertook multiple regulatory actions to address these unique discharges. Congress, with the addition of section 402(p), established a structured and phased approach to address storm water discharges and fundamentally altered the way storm water is addressed under the CWA as compared with other point source discharges of pollutants. Section 402(p)(1) created a temporary moratorium on NPDES permits for point source storm water discharges, except for those listed in section 402(p)(2), including dischargers already required to have a permit and discharges associated with industrial activity. In 1990, pursuant to section 402(p)(4), EPA promulgated the Phase I storm water regulations for those storm water discharges listed in 402(p)(2). The Phase I regulations required NPDES permit coverage for discharges associated with industrial activity and from "large" and "medium" municipal separate storm sewer systems (MS4s). As part of that rulemaking, EPA interpreted storm water "discharges associated with industrial activity" to include storm water discharges associated with

"construction activity" as defined at 40 CFR 122.26(b)(14)(x). As described in the Phase I regulations, dischargers must obtain authorization to discharge (or "permit coverage"), including discharges associated with construction activity, including clearing, grading, and excavation, if the construction activity:

- Will result in the disturbance of five acres or greater; or
- Will result in the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or greater.

Section 402(p)(5) and (6) establishes a process for EPA to evaluate potential sources of storm water discharges not included in the Phase I regulations and to designate discharges for regulation to protect water quality. Section 402(p)(6) instructs EPA to "issue regulations…which designate storm water discharges, other than those discharges described in [section 402(p)(2)], to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources." In 1999, pursuant to the broad discretion granted to EPA under section 402(p)(6), and in response to a court remand in Natural Resources Defense Council v. EPA, 966 F.2d 1292, 1306 (9th Cir. 1992) (holding that EPA had failed to explain in its 1990 Phase I storm water rule why storm water discharges from construction sites disturbing less than five acres were not industrial in nature), EPA promulgated the Phase II storm water regulations that designated discharges associated with "small" construction activity and "small" MS4s. 40 CFR 122.26(b)(15). NPDES permit coverage is required for discharges associated with "small" construction activity, including clearing, grading, and excavation, if the construction activity:

- Will result in land disturbance of equal to or greater than one acre and less than five acres; or
- Will result in disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

EPA continues to have discretionary authority under section 402(p)(6) to designate additional storm water discharges for regulation under the CWA to protect water quality. The NPDES regulations establish a process for exercising discretion to designate and require NPDES permits for unregulated storm water discharges.

2. IPDES Permits

An IPDES permit authorizes the discharge of a pollutant or pollutants into receiving waters under certain conditions. In 2018, DEQ was authorized by EPA to administer the IPDES program in the state of Idaho. The IPDES program relies on two types of permits: individual and general. An individual permit is a permit specifically tailored for an individual discharger or situations that require individual consideration. Upon receiving the appropriate permit application(s), the permitting authority, *e.g.* IPDES Bureau, develops a draft permit for public comment for that particular discharger based on the information contained in the permit application (type of activity, nature of discharge, receiving water quality). Following consideration of public comments, a final permit is then issued to the discharger for a specific

time period (not to exceed 5 years) with a provision for reapplying for further permit coverage prior to the expiration date.

In contrast, a general permit covers multiple facilities/sites/activities within a specific category for a specific period of time (not to exceed 5 year term of the permit). IDAPA 58.01.25.130.01. For general permits, the permitting authority (e.g., IPDES Bureau) develops and issues the permit in advance. A general permit is subject to public comment prior to issuance. Dischargers (any operators of the construction site; typically a developer, builder and/or contractor) obtain coverage under the general permit through submission of a Notice of Intent (NOI). An NOI is not a permit or a permit application, but by submitting the NOI, the discharger asserts and acknowledges that it is eligible for coverage under the general permit and that it agrees to the conditions in the published general permit. IDAPA 58.01.25.130.04 - 05. DEQ is the permitting authority in the state of Idaho, outside of tribal lands, while EPA is the permitting authority for tribal lands within the state of Idaho. (NPDES Memorandum of Agreement Between IDEQ and EPA, pg. 7.) Each permitting authority should review their permittees and geographic area and develop appropriate permits considering technology and water quality. In addition, the IPDES Bureau may issue a permit that has different requirements than EPA's permit for similar types of discharges of pollutants, as long as it satisfies the regulatory requirements of the NPDES program, the CWA, and state law. 40 CFR 123.25.

General permits may be written to cover categories of point sources having common elements, such as facilities that involve the same or substantially similar types of operations, that discharge the same types of wastes, or that are more appropriately regulated by a general permit. IDAPA 58.01.25.130.01. Given the significant number of construction operations requiring IPDES permit coverage and the discharges of pollutants common to these operations, it makes administrative sense to issue the general permit, rather than issuing individual permits to each Operator. Courts have approved of the use of general permits. See e.g., *Natural Res. Def. Council v. Costle*, 568 F.2d 1369 (D.C. Cir. 1977); *EDC v. US EPA*, 344 F.3d 832, 853 (9th Cir. 2003). The general permit approach allows EPA and DEQ to allocate resources in a more efficient manner and to provide more timely coverage and may significantly simplify the permitting process for the majority of construction sites. As with any permit, the CWA requires the general permit to contain technology-based effluent limits, as well as any more stringent limits when necessary to meet applicable state water quality standards. IDAPA 58.01.25.302; IDAPA 58.01.02. State water quality standards apply in the state.

Since 1992, EPA has issued a series of Construction General Permits (CGPs) that cover areas where EPA is the NPDES permitting authority. At present, EPA is the permitting authority in three states (Massachusetts, New Hampshire, and New Mexico), the District of Columbia, Puerto Rico, and all other U.S. territories with the exception of the Virgin Islands, construction projects undertaken by Federal Operators in four states (Colorado, Delaware, Vermont, and Washington), most Indian Country lands and a couple of other specifically designated activities in specific states (e.g. oil and gas activities in Texas and Oklahoma). Since 2018, EPA has delegated authority for the NPDES program in the state of Idaho to DEQ. DEQ received delegated authority in a phased manner, taking authority for the Construction General Permit on July 1, 2021. EPA's 2017 CGP became effective on February 16, 2017 and expires at midnight on February 16, 2022. The DEQ 2022 CGP will replace the EPA 2017 CGP in the State of Idaho outside of Indian Country lands.

DEQ may require any construction site to apply for an individual permit rather than using the general permit. IDAPA 58.01.25.130.05.c; 58.01.25.130.06. Likewise, any discharger may apply to be covered under an individual permit rather than seek coverage under an otherwise applicable general permit. IDAPA 58.01.25.130.05.d. Unlike a general permit, an individual permit is intended to be issued to one permittee, or a few co-permittees.

3. Technology-Based Effluent Limitations Guidelines and Standards in IPDES Permits

Effluent Limitations Guidelines (ELGs) and new source performance standards (NSPSs) dictate technology-based effluent limitations in permits under CWA sections 301 and 306 for categories of point source discharges. These ELGs and NSPS, which can be either numeric or non-numeric, must be incorporated into IPDES permits, as appropriate, along with water quality based effluent limits, if necessary. ELGs and NSPSs are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Title III of the CWA and summarized as follows:

1. **Best Practicable Control Technology Currently Available (BPT).** The CWA requires EPA to specify BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In doing so, EPA must determine what level of control is technologically available and economically practicable. CWA section 301(b)(1)(A). In specifying BPT, EPA must look at a number of factors. EPA considers the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application. EPA also considers the age of the equipment and facilities, the process employed and any required process changes, engineering aspects of the application of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as EPA deems appropriate. CWA section 304(b)(1)(B).

2. **Best Available Technology Economically Achievable (BAT).** BAT effluent limits are applicable to toxic (priority) and nonconventional pollutants. EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific pollutants have been designated priority toxic pollutants. (See 40 CFR 401.15 and 40 CFR 423, Appendix A). In general, BAT represents the best available performance of facilities through application of the best control measures and practices economically achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives within the point source category. CWA section 304(b)(2)(A). The factors EPA considers in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the EPA Administrator deems appropriate. CWA section 304(b)(2)(B).

3. **Best Conventional Pollutant Control Technology (BCT).** The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing points sources. BCT is not an additional limitation but replaces Best Available Technology BAT for control of conventional pollutants. In addition to other factors specified in CWA section 304(b)(4)(B), the Act requires that EPA establish BCT limitations after consideration of a

two-part "cost reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986. 51 FR 24974 (July 9, 1986). Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. See 40 CFR 401.16. The EPA Administrator designated oil and grease as an additional conventional pollutant. 44 FR 44501 (July 30, 1979). CWA section 304(b)(4)(B).

4. **Best Available Demonstrated Control Technology (BADT) for New Source Performance Standards (NSPS).** NSPS apply to all pollutants and reflect effluent reductions that are achievable based on the BADT. New sources, as defined in CWA section 306, can install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology. In establishing NSPS, CWA section 306 directs EPA to take into consideration similar factors that EPA considers when establishing BAT, namely the cost of achieving the effluent reduction and any non-water quality, environmental impacts and energy requirements. CWA section 306(1)(B).

IPDES permits issued for construction storm water discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology based ELGs established under Section 301 and, where applicable, any NSPS established under Section 306. Once an ELG or NSPS is promulgated in accordance with these sections, IPDES permits must incorporate limits based on such limitations and standards. IDAPA 58.01.25.302.03. Prior to the promulgation of national ELGs and/or NSPS, DEQ must establish and include in IPDES permits technology-based effluent limitations on a case-by-case basis based on best professional judgment. See CWA section 402(a)(1)(B); IDAPA 58.01.25.302.19.c.

4. EPA's Construction and Development Effluent Limitations Guidelines and New Source Performance Standards

On December 1, 2009, EPA promulgated ELGs and NSPSs to control the discharge of pollutants from construction sites. See 74 Fed. Reg. 62996, and 40 CFR 450.21. These requirements, known as the "Construction and Development Rule" or "C&D rule," became effective on February 1, 2010. Following the promulgation of the C&D rule in 2009, several parties filed petitions for review of the final rule, identifying potential deficiencies with the dataset that the EPA used to support its decision to adopt a numeric turbidity limitation as well as other issues. On March 6, 2014, pursuant to a settlement agreement to resolve the litigation, EPA finalized requirements, and also provided clarification regarding several other requirements of the rule. See 79 Fed. Reg. 12661 and 80 Fed. Reg. 25235. Because the 2022 CGP is being issued after the effective date of the 2014 C&D rule amendments, DEQ must incorporate these requirements into this permit. Therefore, the 2022 CGP includes revisions that reflect the 2014 C&D rule amendments, as well as maintains existing changes that were made to the 2017 CGP to incorporate the other portions of the C&D rule requirements not affected by the 2014 amendments. A summary of the C&D rule requirements is included below.

The C&D rule requirements include non-numeric effluent limitations that apply to all permitted discharges from construction sites (40 CFR 450.21). The effluent limitations are structured to

require construction operators to first prevent the discharge of sediment and other pollutants through the use of effective planning and erosion control measures; and second, to control discharges that do occur through the use of effective sediment control measures. Operators must implement a range of pollution control and prevention measures to limit or prevent discharges of pollutants, including those from dry weather discharges as well as wet weather (i.e., storm water).

The non-numeric effluent limitations are designed to prevent or minimize the mobilization and storm water discharge of sediment and sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize exposure of storm water to construction materials, debris and other sources of pollutants on construction sites. In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants, such as nutrients, organics, pesticides, herbicides and metals that may be present naturally in the soil on construction sites, such as arsenic or selenium, or may have been contributed by previous activities on the site such as agriculture or industrial activity. These pollutants, once mobilized by rainfall and storm water, can detach from the soil particles and become dissolved pollutants. Once dissolved, these pollutants would not be removed by down-slope sediment controls. Source control through minimization of soil erosion is therefore the most effective way of controlling the discharge of these pollutants. The C&D rule's non-numeric effluent limits are as follows (40 CFR 450.21):

1. Operators must design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed, and maintained to:

    a. Control storm water volume and velocity to minimize soil erosion in order to minimize pollutant discharges;

    b. Control storm water discharges, including both peak flowrates and total storm water volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;

    c. Minimize the amount of soil exposed during construction activity;

    d. Minimize the disturbance of steep slopes;

    e. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, and intensity and duration of precipitation, the nature of resulting storm water discharge, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

    f. Provide and maintain natural buffers around waters of the United States, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges, unless infeasible;

    g. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

h. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

2. Operators must, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

3. Operators must minimize the discharge of pollutants from dewatering trenches and excavations. Discharges are prohibited unless managed by appropriate controls.

4. Operators must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

    a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

    b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water. Minimization of exposure is not required in cases where the exposure to precipitation and to storm water will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of storm water contamination (such as final products and materials intended for outdoor use); and

    c. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

5. The following discharges from C&D sites are prohibited:

    a. Wastewater from washout of concrete, unless managed by an appropriate control;

    b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

    c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

    d. Soaps or solvents used in vehicle and equipment washing.

6. When discharging from basins and impoundments, operators must utilize outlet structures that withdraw water from the surface, unless infeasible.

This fact sheet discusses in the sections below how DEQ has incorporated these requirements into its proposed 2022 CGP. The discussion will include a summary of each provision and DEQ's rationale for articulating the provision in this way. DEQ notes that most of the EPA 2017 CGP's provisions are retained in the proposed 2022 CGP.

III. Summary of Significant Changes to the CGP Compared to the EPA 2017 CGP

1. Summary of Proposed Changes

As an overall matter, the changes DEQ is proposing for the 2022 CGP are narrow in scope, targeted at specific issues, and are not expected to have a significant cost impact on the regulated industry.

Since this is a state issued permit, the requirements related to historic properties screening stemming from the Historic Preservation Act have been removed. Those requirements apply only to federal undertaking actions. State permits issued by an approved state NPDES program under the Clean Water Act do not meet the definition of a federal undertaking. Historic Green Springs, Inc. v. EPA, 742 F. Supp2d 837 (Fourth Cir. 2010).

The following table summarizes the significant changes proposed for the 2022 CGP and groups each potential revision into one of three categories: Changes to Clarify, Added Specificity, and Additional or Altered Requirements. The table also identifies where each change may be found in the proposed permit. A more detailed discussion of each proposed change and DEQ's supporting rationale is included in Section IV.

Summary of Changes		Part(s) Where Change Appears
Changes to Clarify Permit	Added specificity regarding authorization to discharge being granted upon applicant receipt of notification thereof from DEQ. IDAPA 58.01.25.130.05.b.x.(4).	1.1.4 Table 1
	Updated permit language related to water quality to reflect changes made to same provision in EPA's 2022 Construction General Permit (CGP)	1.1.7, 1.1.8, 2.2.13.G, 7.2.6.B.v(c)
	Clarified that dewatering discharges from contaminated sites (as defined) are prohibited	1.3.6
	More clearly differentiate between routine maintenance fixes and corrective actions	2.1.4.B and C, 5.1.1
	Clarified that perimeter controls are required in addition to establishing a natural buffer between construction activities and waters of the U.S., where applicable	2.2.3.A
	Specified that soil stockpile requirements do not apply to rock piles	2.2.5

	Further clarified the flexibilities provided for arid and semi-arid areas during the seasonally dry period	2.2.14.B and C, 4.4.2, Appendix A
	Moved EPA 2017 CGP Section 9.7.1 Idaho Specific requirements related to hazardous material pollution prevention to main permit location	2.3.3.D.vii
	Clarified when waste containers with lids must be closed	2.3.3.E.ii
	Moved EPA 2017 CGP Section 9.7.1 Idaho Specific requirements related to turbidity monitoring to main permit location	3.4
	Provided examples to further explain how often inspections are required for multiple day storm events	4.2.2
	For operators who choose to inspect once every 14 days and within 24 hours of a 0.25 inch storm, provided a snowfall equivalent to the 0.25 inch rainfall event.	4.2.2
	Clarified that the SWPPP site map must be updated following site inspection to reflect any changes to storm water controls, where applicable	4.6.4
	Clarified that inspection reports and SWPPPs may be kept in electronic form as long as they are accessible in the same way as a paper report	4.7.3, 5.1.1, 7.3
	Streamlined corrective action documentation	5.4
	Consolidated storm water team and training requirements	6.1, 6.2
	Updated the Endangered Species Act eligibility procedures to clarify documentation required and include new website resources	Appendix C
Added Specificity	Modified the definition of operator to specifically include parties that can modify the SWPPP or construction drawings.	1.1.1
	More specifically described where perimeter controls are needed, how to install them to ensure effectiveness, and when to conduct repairs	2.2.3
	Added specificity to dewatering discharge requirements: • Improved clarity of required controls for sediment and other pollutant discharges from dewatering activities	2.4, 4.3.2, 4.5.5, 4.6.3, 5.1.5

	• Included more detailed inspection requirements for dewatering activities, including:
	  ○ Indicated on NOI if dewatering will occur on site
	  ○ More frequent inspections for ground water dewatering
	  ○ Specified areas of dewatering operation that must be inspected
	  ○ Operators required to record times, estimated rate, and visual qualities of discharge, and to take and keep photos of dewatering controls and discharge
	• Specified that corrective action required if sediment plume or sheen observed in dewatering discharge	

	Clarified when turbidity monitoring can cease and when work can resume.	3.4
	Specified the options for obtaining the necessary training for personnel conducting site inspections, including providing an EPA-developed inspector training program	4.1, 6.3
	Specified that inspections include checking for signs of sedimentation at points downstream that could be attributable to the discharge	4.6.1.D
	Specified that inspections should document monitoring results	4.6.2.C
	Require photo documentation of stabilized site as part of permit termination	8.2.1.A, Appendix H
	Added question to the NOI for operators to indicate if other operators involved in the same project are also covered under the CGP	Appendix G
Additional or Altered Requirements	Operators of existing sites given 60 days to submit a new NOI after the effective date of the 2022 CGP, rather than 90 days. Operators that do not meet this NOI submittal deadline will be automatically terminated 60 days after effective date of permit	1.4 Table 1
	Discharges from sites discharging dewatering water are ineligible for coverage if the site is considered contaminated (as defined)	1.3.6

	Added "failure to pay annual fee, delinquent in excess of 180 days" to the list of causes for permit coverage termination	1.4.7.D
	Applied existing waste control flexibilities to additional construction materials	2.3.3.A and E
	Required targeted sampling of dewatering discharges	3.3
	Added requirements for pH monitoring for all sites discharging directly to a WOTUS	3.4
	Added requirement to conduct an inspection along with monitoring for turbidity and pH when there is a direct discharge from the site to WOTUS	4.2
	Added conditions requiring corrective actions related to turbidity and pH monitoring	5.1.6, 5.1.7
	Added an option for Site Inspector training requirement to be completed utilizing EPA's new training program	6.1 and 6.2
	New Inspector training options to supplement existing training requirements for Inspectors	6.3
	Requirement to take and submit photos of stabilized site for notices of termination	8.2.1.A
	Removed Historic Property Screening Process	Appendices
	Added requirements for reporting of sampling data along with Notice of Termination	8.3, Appendix H, Appendix J
	Developed a suggested format for reporting of storm event monitoring data.	Appendix J

The following describe the changes that are proposed within the three categories:

1. *Changes to Clarify the Permit*

   DEQ proposes a number of relatively minor changes that focus on improving the clarity of provisions where permittees, EPA staff, DEQ staff, or other stakeholders have raised questions. These changes generally do not change the underlying requirement from the 2017 CGP, but rather attempt to make DEQ's intent clearer. It is DEQ's goal that these proposed clarifications improve the overall understanding of the permit's requirements from all perspectives, including the permitting authority, permittees, and the general public. The proposed changes to improve clarity include the following:

- *Clarified when applicants become authorized to discharge* – DEQ has received questions regarding when an authorization to discharge becomes effective. DEQ clarified that operators become authorized to discharge upon receipt of an authorization letter from DEQ. (Table 1 in Permit Section 1.1.4. *See*, IDAPA 58.01.25.130.05.b.x.(4))

- *Approved storm water control and storm water pollution prevention plan products* – Industry stakeholders suggested a change to discourage some vendors from claiming that the permit approves of specific products. DEQ included new language in the permit to clearly state that DEQ does not endorse specific storm water control or storm water pollution prevention plan products or vendors. (Permit footnotes 13 and 62 in Sections 2.1 and 7.1)

- *Differentiate between routine maintenance and corrective action* - DEQ proposes to define routine maintenance as repairs to or replacement of storm water controls that can be completed within 24 hours of first discovering the need for the repair or replacement. When a repair or replacement takes longer than 24 hours, the permit would require that it be treated as a corrective action. This attempts to clarify when maintenance is routine vs. when it is a corrective action. (Permit Sections 2.1.4.B and C, 5.1.1)

- *Clarify application of perimeter control and natural buffer requirements* – DEQ understands that there is confusion about whether perimeter controls are necessary on the site when the operator is already providing a natural buffer pursuant to the requirements of the permit. To address this confusion, DEQ clarifies that perimeter controls must be installed upgradient of any natural buffers except in situations where the perimeter control is being used by the permittee to fulfill one of the buffer alternative requirements, in which case a second perimeter control is not required. (Permit Section 2.2.3.A)

- *Clarify the permit flexibilities for arid and semi-arid areas* – the EPA 2017 CGP established alternative stabilization and inspection schedules for arid and semi-arid areas that are reflective of the different climatic and precipitation conditions that exist in those areas. These stabilization and inspection schedule flexibilities apply during the "seasonally dry period" of the year when there is less risk of a discharge producing storm event. The EPA 2017 permit did not define "seasonally dry period." The 2022 permit establishes a new definition to provide clarity, and includes resources to assist construction operators located in an arid or semi-arid area in determining when they may be operating during a seasonally dry period of the year. (Permit Sections 2.2.14.B and C, 4.4.2, Appendix A)

- *Clarified requirements for inspections during snowmelt conditions* – The 2022 permit proposes to add a numeric inspection threshold for snowfall precipitation that is equivalent to the 0.25 inch rain event, which triggers the need for an inspection if the operator chooses to inspect its site on a bi-weekly basis pursuant to Section 4.2.2. This change clarifies that where there is a discharge from snowmelt caused by an accumulation of 3.25 inches or greater of snow, an

inspection would be required. DEQ relied upon information from the National Oceanic and Atmospheric Administrations (NOAA) and EPA's expertise to derive the 3.25 inch snowfall equivalent to the 0.25 inch rain event. (Permit Section 4.2.2)

- *Availability of storm water pollution prevention plan (SWPPP), inspection reports, and corrective action log in electronic form* – the EPA 2017 CGP enables operators to keep their SWPPP, inspection reports, and corrective action records in electronic form, as long as it can be accessed and read by the permittee and by any DEQ, EPA, or other state or local inspection authorities in the same manner as a paper copy. EPA had the explanation of the availability of electronic records in an FAQ section of its storm water site, rather than in the permit. DEQ has updated the permit to include text to clarify that electronic versions of the SWPPP, inspection reports, and corrective action logs may be used as long as they meet certain minimum requirements. (Permit Sections 4.7.3, footnote 57, 5.4.3, footnote 58, and 7.3, footnote 66)

- *Updated process for Endangered Species Act eligibility determinations* – DEQ proposes several updates to Appendix C of the CGP, which establishes procedures for operators to follow in determining their eligibility of coverage with respect to the protection of endangered and threatened species. DEQ is not required to conduct consultation with the services, however, operators are required to comply with the Endangered Species Act and results of any consultation they hold with the services.

- *Clarified the definition of Operator* – the 2022 CGP clarifies that the 1.1.A includes those who have the authority to modify SWPPPs, as well as other construction related drawings or plans.

2. *Added Specificity to Permit Requirements*

DEQ is proposing select modifications to the permit to address specific problems that have come to DEQ's attention during the permit term or to incorporate enhancements that reflect current best practices. These proposed changes are narrowly focused on specific topics. The following is a summary of these proposed changes:

- *Perimeter control installation and maintenance requirements* – Due to the vital role that sediment controls installed along the downslope side of the construction site perimeter play in minimizing sediment discharges, it is important for the CGP requirements related to these controls to reflect best practices that are available, effective, and practicable. DEQ is proposing additional perimeter control installation and maintenance requirements that are focused on ensuring that these controls continue to work effectively. For example, if there is evidence of storm water circumventing or undercutting the perimeter control after a storm event, the operator would be required to extend the length of the perimeter control or repair any undercut areas, whichever applies. This change is intended to ensure that maintenance of these controls is

focused on fixing problems as soon as they are found and making sure they work effectively when the next storm event occurs. (Permit Section 2.2.3)

- *Pollution prevention requirements for chemicals used and stored on site* – DEQ is proposing changes to the pollution prevention requirements for diesel fuel, oil, hydraulic fluids, or other petroleum products, and other chemicals. These proposed changes reframe the EPA 2017 CGP requirements so they are proportionate to the volume of chemicals being used and stored on the site, and relative to the risk of a spill or leak. DEQ is attempting to improve the connection between the type of pollution prevention control needed and the volume of the pollutant kept on site. Consistent with this, the proposed permit establishes control requirements that are appropriate for smaller sized containers by requiring that the operator use water tight containers, place them on a spill containment pallet if kept outside, and have a spill kit in good working condition available at all times, and personnel available to respond quickly to a spill or leak. These controls will be effective at preventing a discharge from a spill or leak, while also having the added advantage of being moved more easily around the site. The proposed permit also includes controls that are more suitable to larger volumes of chemicals on site, such as requiring a temporary roof or secondary containment to prevent a discharge from a leak or spill. (Permit Section 2.3.3)

- *Dewatering discharge requirements* – DEQ is proposing several changes to the permit's dewatering requirements to improve compliance and further reduce pollutant loads to waterways. EPA noted violations during the EPA 2017 CGP term with respect to dewatering requirements at sites with controls that are improperly installed and maintained, resulting in significant discharges of sediment and other pollutants to receiving waters. Given the high rate at which dewatered water may be discharged, EPA inspection personnel have observed that it is possible for a site to discharge more sediment in several hours of poorly managed dewatering activities than might otherwise be discharged from a site via storm water discharges over the entire course of the construction project.

  The proposed revisions to the permit add clarity to the existing pollutant control provisions, increase the number of inspections required while the dewatering discharge is occurring, establish a tailored checklist of problems to review during the inspection, and identify specific triggers for when corrective action is required. For example, one new inspection provision would require the operator to check whether a sediment plume, sheen, or hydrocarbon deposit on the bottom or shoreline of the receiving water was observed during a dewatering discharge. If such a plume, sheen, or deposit is observed, the permit would require the operator to, among other things, take immediate steps to suspend the discharge and ensure that the dewatering controls being used are operating effectively. During an inspection of the dewatering operation, the operator would also be required to take photographs of:

(1) the dewatering water prior to treatment by a storm water control and the final discharge after treatment;

(2) the storm water control; and

(3) the point of discharger to any waters of the U.S. flowing through or immediately adjacent to the site.

This documentation will help demonstrate how well the dewatering controls are working and will show where adaptations made after any problems have been found have resulted in improved pollutant control. (Permit Sections 2.4, 4.3.2, 4.5.5, 4.6.3, and 5.1.5)

- *Training requirements for personnel conducting site inspections* – DEQ is proposing to include modifications to the training requirements for personnel conducting site inspections. During the EPA 2017 CGP permit term, EPA observed that while some permittees properly conduct site inspections and documentation, a large number do not. DEQ proposes to address this problem by strengthening the training requirements for inspection personnel to ensure their competency to conduct such inspections. The proposed permit specifies that anyone carrying out inspections must either:

  (1) have completed the new EPA construction inspection course developed for the 2022 EPA CGP and passed the exam, or

  (2) hold a current valid certification or license from a program that covers essentially the same principles as EPA's inspection course.

  The proposal also includes an exception to the new training requirement if the personnel are working under the supervision of a person who has met the qualifications described above. These new proposed requirements are essentially an extension of what the EPA 2017 CGP already required for the qualified person to conduct inspections.

  EPA is in the process of developing a construction inspection training program that will be made available as an option to fulfill this new requirement to CGP permittees along with an exam that, if passed, will provide the person with documentation showing that they have successfully completed the course. EPA intends to have the training program ready for use by the issuance of the final EPA 2022 CGP, so it should be available when this permit is effective as well, and if it is not, then the equivalent training requirement can be met until EPA's training program is available.

- *Documenting signs of sedimentation attributable to construction site discharges* – DEQ specifies in the proposed permit that during the inspection, operators must check for signs of sedimentation at points downstream from the point of discharges that could be attributable to their discharges. EPA's compliance inspections during the EPA 2017 CGP permit term found that permittees frequently do not document obvious signs that its discharges have caused

sedimentation in the receiving water. The intent of this proposed addition is to emphasize that the site inspection is an ideal time to examine whether there are any obvious signs of sedimentation attributable to the site's discharges, and to require documentation of such sedimentation. DEQ does not specify in the permit a specific distance downstream of the site that operators must check for sedimentation that could be attributable to the discharge, given the variable site-specific conditions. Instead, DEQ expects that operators will account for the amount of sediment leaving the site in determining this distance. DEQ notes that the EPA 2017 CGP already requires operators to check for signs of visible erosion and sedimentation that have occurred and are attributable to the permittees' discharge at outfalls and, if applicable, on the banks of any waters of the U.S. flowing within or immediately adjacent to the site. (Permit Section 4.6.1.D)

- *Photo documentation of adequate site stabilization* – EPA's compliance inspectors have observed cases when operators prematurely terminate coverage under the CGP before the site is properly stabilized. The proposed permit adds a new provision requiring operators as part of their Notice of Termination (NOT) to take and submit photographs showing the stabilized areas of the site following completion of construction. DEQ proposes this requirement primarily as proof that permittees are complying with the stabilization requirements prior to terminating coverage. Given the importance of stabilization in preventing continuing erosion and sedimentation, DEQ views the additional proposed photo documentation requirement to be a relatively inexpensive, effective, and straightforward way for the permittee to show DEQ that it has complied with the permit's final stabilization requirements. (Permit Section 8.2.1.A)

- *Notice of Intent questions* – DEQ proposes to add new questions to the NOI form that construction operators will use to obtain coverage under the 2022 CGP. One question asks operators if dewatering water will be discharged during the course of their permit coverage. While DEQ suspects that many CGP covered projects discharge dewatering water during construction, it would be useful to DEQ to know what the prevalence of this practice is at permitted sites. Another question asks the operator completing the NOI whether there are other operators who are also covered by the CGP at the same site, and, if so, what their NPDES/IPDES ID numbers are. This question allows DEQ to easily determine who all the permitted entities are at a site.

3. Additional or Altered Requirements

DEQ is proposing modifications to specific permit terms to comply with IDAPA rules and follow DEQ guidance materials. These specific changes are described below.

- *Notices of Intent (NOIs)* – Under the 2017 CGP, Operators were required to submit NOIs using EPA's NPDES eReporting Tool (NeT). Along with the transition to DEQ authority, CGP NOIs will now be submitted using DEQ's E-Permitting System.

- *Turbidity Monitoring Requirement* – The 2022 CGP maintains the 2017 CGP's Idaho specific requirement to monitor for turbidity when there is a direct discharge from the construction site to a water of the U.S. causing a visible plume in the receiving water. In the 2017 CGP it was unclear when work could resume if the monitoring showed an exceedance of water quality standards. In the 2022 CGP, the requirement has been modified to make it clear that work can resume after meeting WQS or when the discharge ceases. Turbidity monitoring that indicates an exceedance of WQS may trigger corrective action.

- *pH Monitoring* – DEQ has added a requirement to monitor for pH when a site is discharging during a rain event or snowmelt event that triggers other inspection requirements. pH monitoring that indicates an exceedance of WQS triggers corrective action.

- *Inspection Frequency* – DEQ has added inspection and monitoring of construction dewatering to the 2022 CGP. In addition, if a rain event of 0.25" or greater causes a discharge directly to a receiving water body, then pH and turbidity monitoring and an inspection are required.

- *Termination Requirements* – DEQ is adding a requirement to document how your site qualifies for termination. Photographic evidence of site stabilization will qualify the site for termination.

2. Geographic Coverage of the Permit

This permit provides permit coverage for storm water discharges associated with construction activities in the State of Idaho outside of tribal lands.

3. Categories of Facilities that can be Covered Under this Permit

This permit covers storm water discharges associated with construction activities in the State of Idaho outside of tribal lands, which disturb one or more acres of land, or will disturb less than one acre, but are part of a common plan of development or sale that will ultimately disturb one acre or more. The table below summarizes which construction activities may be covered by this permit.

Table 1. Categories of Facilities that can be Covered Under the CGP

Examples of Affected Entities	North American Industry Classification System (NAICS) Code
Construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more, and performing the following activities:	
Construction of Buildings	236
Heavy and Civil Engineering Construction	237

Be aware that this list of NAICS codes covers those industry segments most likely to make use of this permit, but any construction operator that meets the eligibility requirements established for coverage is eligible. Eligibility for coverage by the permit is available to operators of "new

sites," operators of "existing sites," "new operators of permitted sites," and operators of "emergency related projects," as discussed in permit Section 1.2 and defined in Appendix A.

IV. Permit Requirements

This section outlines the purpose of each section of the permit. This is followed by the permit requirements (in boxes), and any additional explanation of each section.

1. Coverage Under the 2022 CGP

Section 1 of the CGP details the requirements that must be met to obtain coverage under the permit. Although this section has been reorganized from prior EPA permits, most of the requirements for coverage and the process to be followed for seeking coverage remain unchanged.

1.1 Eligibility

The requirements in Section 1.1 describe all the conditions that must be met to be eligible for coverage under the CGP, as follows. Listing these eligibility conditions ensures that operators have verified that their particular construction project, and discharges from it, are eligible for coverage under this permit.

1. An Operator of a construction site for which discharges that enter or have the potential to enter into Waters of the United States (WOTUS) may apply to be covered under this permit. IDAPA 58.01.25.102.01. For the purpose of this permit, "Operator" is defined in Appendix A to mean any party associated with a construction project that meets either of the following two criteria:

   A. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications ("plans and specifications" includes the construction drawings, the SWPPP, and any other plans and specifications used on the project); or

   B. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions.

   Where there are multiple operators associated with the same project, all operators must obtain permit coverage.[1] Subcontractors generally are not considered operators for the purposes of this permit.

2. This permit covers construction activities that:

   A. Will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale[2] that will ultimately disturb one or more

[1] If the operator of a "construction support activity" (See Section 1.2.1.C) is different than the operator of the main site, that operator must also obtain permit coverage. See Section 7.1 for clarification on the sharing of permit related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

acres of land; or

B. Have been designated by DEQ as needing permit coverage under 40 CFR 122.26(a)(1)(v) or 40 CFR 122.26(b)(15)(ii).

3. The construction activities are within the state of Idaho where DEQ is the permitting authority, but not within tribal reservation boundaries.

4. Discharges from your site are not:

   A. Already covered by a different IPDES permit for the same discharge; or

   B. In the process of having coverage under a different IPDES permit for the same discharge be denied, terminated, or revoked.[3, 4]

5. You are able to demonstrate that you meet one of the criteria listed in Appendix C with respect to the protection of species that are federally listed as endangered or threatened under the Endangered Species Act (ESA) and federally-designated critical habitat.

6. For new sources (as defined in Appendix A) only:

   A. DEQ has not, prior to authorization under this permit, determined that discharges from your site will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, DEQ may notify you that an individual permit application is necessary. However, DEQ may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharge into compliance with this permit, specifically, to meet water quality standards (WQS). In the absence of information demonstrating otherwise, DEQ expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Section 3, will result in discharges that will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard.

   B. Discharges from your site to a Tier II or Tier III water[5] will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, DEQ

[2] A "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 common plan. The "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 construction activities may occur on a specific plot.

[3] Sections 1.1.4.A and 1.1.4.B do not include sites currently covered under the 2017 CGP that are in the process of obtaining coverage under this permit, nor sites covered under this permit that are transferring coverage to a different operator.

[4] Except for a site being made ineligible for coverage under this permit because it falls under the descriptions of Sections 1.1.4.A or 1.1.4.B, DEQ may waive the applicable eligibility requirement after specific review if it determines that coverage under this permit is appropriate.

[5] Your site will be considered to discharge to a Tier II or Tier III water if the first water of the U.S. to which you discharge is identified by the State of Idaho as a Tier II or III water. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the storm water discharge from the storm sewer system. For discharges that reach a canal or other manmade water conveyance

expects that compliance with the requirements of this permit, including the requirements applicable to such discharges in Sections 3.2, 3.3, and 3.4, will result in discharges that will not lower the water quality of such waters.

7. If you plan to add cationic treatment chemicals, as defined in Appendix A, to storm water and/or authorized non-storm water prior to discharge, you may not submit your NOI until and unless you notify DEQ in advance and DEQ authorizes coverage under this permit after you include appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to discharges that cause an exceedance of WQS.

The definition of operator in section 1.1.1 is consistent with the EPA 2012 and 2017 CGPs. Any party associated with a construction site that meets the first part of the definition of "operator" (i.e. the party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications) or the second part of the definition of "operator" (i.e. the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions) must obtain IPDES permit coverage for its storm water discharges associated with construction activity including clearing, grading, and excavation.

Section 1.1 of the permit also clarifies the requirements with respect to projects with multiple operators. Where there are multiple operators associated with the same project, all operators must obtain permit coverage. Also, if the operator of a "construction support activity" is different than the operator of the main site, that operator must also obtain permit coverage. For example, if a construction support activity for the project is owned by a separate owner, and if the separate owner meets the definition of "operator," that person must obtain permit coverage for discharges from the site where the support activities are located. However, if the construction support activity is owned or operated by the site operator, then the support activity must be included in the site operator's permit coverage, including and documentation provided in the NOI and SWPPP. Section 1.1 references Section 7.1 for clarification on the sharing of permit related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

The requirements in Section 1.1.6, which apply to new sources, are designed to comply with 40 CFR 122.4(i) requirements that address the issuance of permits to new sources to waterbodies not meeting instream water quality standards. DEQ notes that while Section 1.1.7 is designed to specifically implement 40 CFR 122.4(i), other water quality based requirements apply to existing sources, as well as new sources. Section 3 of the permit includes water quality based effluent limits applicable to all sources, which are designed to ensure that all discharges from all operators are controlled as necessary to meet water quality standards. Modifications are proposed to better reflect the objectives and requirements of the CWA and this permit to ensure that discharges from both new and existing sources meet applicable water quality standards, consistent with CWA sections 402(p)(3)(A) and 301(b)(1)(C). The 2017 CGP described the standard differently as to not "cause, have the reasonable potential to cause, or contribute to an

system, the first water of the U.S. to which you discharge is the waterbody that receives the storm water discharge from the canal or other manmade water conveyance system.

excursion above any applicable water quality standards." Conforming changes are also made to Sections 1.1.8, 2.2.13.G, and 7.2.6.B.v(c)

Section 1.1.6 also requires operators to determine if they discharge to a Tier II or Tier III water, and if they do, to comply with specific requirements in the permit, which are intended to ensure that their discharges will not result in a lowering of water quality in the receiving water. This makes clear to operators their requirements for complying with antidegradation requirements, and provides assurance that operators' discharges will not lead to a lowering of water quality in the receiving water.

Section 1.1.7 clarifies what operators electing to use cationic treatment chemicals must do to be eligible for coverage under the permit. DEQ included Appendix L to the permit as a suggested format for notifying DEQ about its intent to use cationic treatment chemicals.

1.2 Types of Discharges Authorized

Section 1.2 of the CGP provides operators with a comprehensive list of the types of discharges that are authorized once covered under the permit. This list makes operators aware of authorized storm water and non-stormwtaer discharges, and of any additional requirements associated with those discharges to minimize the discharge of pollutants, and also makes operators aware that any discharges not included on the list are not authorized under this permit. The new language in footnote 5 reminds operators to refer to the definition of discharge in appendix A.

Section 1.2.1 lists categories of storm water discharges that are authorized under the CGP provided that all applicable permit limits and conditions are met.

1. The following storm water discharges are authorized under this permit provided appropriate storm water controls are designed, installed, and maintained;

   A. Storm water discharges, including storm water runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activities under 40 CFR 122.26(b)(14) or 122.26(b)(15)(i).

   B. Storm water discharges designated by DEQ as needing a permit under 40 CFR 122.26(a)(1)(v) or 122.26(b)(15)(ii).

   C. Storm water discharges from construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided that:

      i. The support activity is directly related to the construction site required to have permit coverage for storm water discharges;

      ii. The support activity is not a commercial operation, and does not serve multiple, unrelated construction sites;

      iii. The support activity does not continue to operate beyond the completion of the construction activity at the site it supports; and

      iv. Storm water controls are implemented in accordance with Section 2 and Section 3 of this permit for discharges from the support activity areas.

D. Storm water discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining.

Section 1.2.2 provides authorization for non-storm water discharges from the operator's construction activity.

2. The following non-storm water discharges associated with your construction activity are authorized under this permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Section 2 and Section 3 of this permit;

   A. Discharges from emergency fire-fighting activities;

   B. Fire hydrant flushing activities;

   C. Landscape irrigation;

   D. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;

   E. Water used to control dust;

   F. Potable water including uncontaminated water line flushing activities;

   G. External building washdown, provided soaps, solvents, or detergents are not used, and external surfaces do not contain hazardous substances (as defined in Appendix A);

   H. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. You are prohibited from directing pavement wash waters directly to a waters of the U.S., storm drain inlet, or storm water conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;

   I. Uncontaminated air conditioning or compressor condensate;

   J. Uncontaminated, non-turbid discharges of ground water or spring water;

   K. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and

   L. Construction dewatering water discharged in accordance with Section 2.4 of this permit.

DEQ proposes to redefine the term "non-turbid" as it is used in Section 1.2.2 so that it emphasizes the visual qualities of water that is free from turbidity, as opposed to defining this term based on whether water quality standards are met as in the EPA 2017 CGP. The proposed definition of "non-turbid" is as follows: "a discharge that is free from visual turbidity. For the purposes of this permit, visual turbidity refers to a sediment plume or other cloudiness in the water caused by sediment that can be identified by an observer. The new definition is intended to provide a more meaningful definition that will be easier for permittees to apply in practice.

The proposed permit clarifies in Section 1.2.2.I that only those dewatering discharges that are not otherwise prohibited in Section 1.3.6 are considered authorized non-storm water discharges under the permit. This clarification ensures consistency with the proposal to prohibit the discharge of dewatered ground water from contaminated sites in section 1.3.6. Discharges from contaminated sites would not qualify as authorized non-storm water discharges.

Section 1.2.3 allows the discharge of authorized storm water or non-storm water discharges commingled with a discharge authorized by a different NPDES or IPDES permit and/or a discharge that does not require IPDES permit authorization.

3. Also authorized under this permit are discharges of storm water listed above in Section 1.2.1, or authorized non-storm water discharges listed above in Section 1.2.2, commingled with a discharge authorized by a different IPDES permit and/or a discharge that does not require IPDES permit authorization.

1.3 Prohibited Discharges

Section 1.3 identifies the types of discharges that are prohibited from occurring at the operator's construction site.

1. Wastewater from washout of concrete, unless managed by an appropriate control as described in Section 2.3.4 of this permit.
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials.
3. Fuels, oils, or other pollutants used in vehicle or equipment operation and maintenance.
4. Soaps, solvents, or detergents used in vehicle or equipment washing or external building washdown.
5. Toxic or hazardous substances from a spill or other release.
6. Dewatering water discharged from a contaminated site.[6]

To prevent the above-listed prohibited non-storm water discharges, operators must comply with the applicable pollution prevention requirements in Section 2.3 of this permit.

Section 1.3 details the types of wastes and other pollutants that operators are prohibited from discharging under the permit. The prohibited discharges implement the prohibitions from the C&D rule at 40 CFR 450.21(e) and the prohibitions in previous CGPs regarding hazardous substances or oil.

DEQ has added an explicit prohibition of dewatering water from contaminated sites to the list of prohibited discharges. These discharges would not qualify as an authorized non-storm water

[6] The following are considered to be discharges from contaminated sites: sites subject to existing or former remediation activities (e.g. Superfund/CERCLA or RCRA sites).

discharge, but DEQ is including it in this list as a reminder to permittees that these discharges are not allowed.

Any unauthorized non-storm water discharges must be covered under an individual or alternative general permit. The need to obtain separate permit coverage for prohibited discharges is made clear by the addition of language to Section 1.3 that states that if one of the described prohibited discharges will occur, the operator is required to "ensure the discharge is authorized by another IPDES permit consistent with Section 1.2.3."

1.4 Submitting Your NOI

Section 1.4.1 explains the requirement to submit a complete and accurate Notice of Intent in order to become authorized to discharge. There is a waiting period of at least 14 calendar days after DEQ notifies you that it has received a complete NOI before authorization is granted.

1. Operators associated with your construction site who meet the eligibility requirements in Section 1.1 and who seek coverage under this permit, must submit a complete and accurate NOI to DEQ according to the deadlines in Table 1 prior to commencing construction activities.

   Exception: If you are conducting construction activities in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, you may discharge on the condition that a complete and accurate NOI is submitted within 30 calendar days after commencing construction activities establishing that you are eligible for coverage under this permit. You must also provide documentation in your Storm water Pollution Prevention Plan (SWPPP) to substantiate the occurrence of the public emergency.

DEQ recognizes that obtaining CGP coverage following the normal procedures is not feasible in situations requiring emergency related construction. DEQ includes the exception in Section 1.4 to ensures that the authorization process does not interfere with emergency related construction projects required to avoid endangerment to human health, public safety, or the environment. By providing the operators of these projects with the ability to immediately begin work, and to postpone the NOI submission and SWPPP completion deadlines for 03 calendar days, DEQ intends that these projects may proceed without delay. Once the initial 30 calendar days has expired, however, the operator must submit an NOI and complete a SWPPP.

Section 1.4.2 clarifies that completing development of the SWPPP consistent with Section 7 is a prerequisite to submitting an NOI for coverage under this permit.

2. You must develop a SWPPP consistent with Section 7 before submitting your NOI for coverage under this permit.

Section 1.4.3 clarifies the method by which operators are to submit their NOIs for permit coverage.

3. You must use DEQ's IPDES E-Permitting System to electronically prepare and submit your NOI for coverage under this permit unless you receive a waiver from DEQ. The IPDES E-Permitting System may be accessed at https://www2.deq.idaho.gov/water/ipdes. Waivers

from electronic reporting may be granted based on one of the following:

A. If your operational headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband internet access in the most recent report from the Federal Communications Commission; or

B. If you have limitations regarding available computer access or computer capability.

If DEQ grants you approval to use a paper NOI, and you elect to use it, you must complete the form found in Appendix H.

Section 1.4.4 specifies the deadlines for submitting NOIs for permit coverage and official start dates for permit coverage. NOI submittal deadlines vary depending on when the operator commences construction activity.

4. Table 1 provides the deadlines for submitting your NOI and the official start date of your permit coverage, which differ depending on when you commence construction activities.

Table 2. NOI Submittal Deadlines

Type of Operator	NOI Submittal Deadline[7]	Permit Authorization Date[8]
Operator of a new site (i.e., a site where construction activities commence on or after [effective date of permit])	At least 14 calendar days prior to commencing construction activities.	At least 14 calendar days after DEQ notifies you that it has received a complete NOI. DEQ will send an authorization letter with your IPDES Permit Number and dates of authorization, unless DEQ notifies you that your authorization is delayed or denied.
Operator of an existing site (i.e., a site with 2017 EPA CGP coverage where construction activities commenced prior to [effective date of permit])	No later than [60 days after effective date of permit].[9]	
New operator of a permitted site (i.e., an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or	At least 14 calendar days before the date the transfer to the new operator will take place.	

[7] If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different IPDES permit. DEQ may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

[8] Discharges are not authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage. Discharges are not authorized until you have received an authorization letter with the dates of authorization and your IPDES permit number.

[9] Existing coverages under the 2017 EPA CGP that do not meet this NOI submittal deadline will be automatically terminated.

an "existing site".		
Operator of an "emergency related project" (i.e., a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services).	No later than 30 calendar days after commencing construction activities.	You are considered provisionally covered under the terms and conditions of this permit immediately and fully covered at least 14 calendar days after DEQ notifies you it has received a complete NOI. DEQ will send you an authorization letter with your IPDES Permit Number and dates of authorization, unless DEQ notifies you that your authorization is delayed or denied.

The term "operator of a new site" is used to describe projects that commence earth disturbing activities on or after the effective date of the 2022 CGP. New sites include those new sources that are subject to the C&D rule's NSPSs because the commenced construction after February 1, 2010 (the effective date of the C&D rule). The term "new site" was adopted to avoid the confusion that would have resulted if the permit used the term "new source" to describe both projects that began construction after February 1, 2010, but before the effective date of the 2022 CGP, and those projects that begin on or after the effective date of the 2022 CGP.

The term "operator of an existing site" refers to construction projects that commenced activities prior to the effective date of the permit. Existing sites include both those activities that began prior to the February 1, 2010 effective date of the C&D rule, and those that are subject to the NSPS because they commenced after February 1, 2010, but before the effective date of the 2022 CGP.

The 14 day NOI submittal deadlines for operators of new sites and new operators of a new or existing site provides the Fish and Wildlife Service and the National Marine Fisheries Service (the "Services"), with an opportunity to review these submissions and to inform DEQ if they believe that more time is needed to review the potential impacts from the project. The 14 days between receipt of the NOI and authorization is a "waiting period".

During the waiting period, where one or both of the Services requests that they or DEQ need to further explore whether a particular facility is eligible for permit coverage, DEQ can delay authorization to allow such an assessment to take place. DEQ may also use the waiting period to determine whether any more stringent control measures are necessary to ensure that discharges will meet applicable water quality standards, to be consistent with an applicable wasteload allocation (WLA), or to comply with state or tribal antidegradation requirements.

DEQ clarifies that this waiting period is not a public notice and comment period. DEQ will consider any information provided to it during the waiting period, but does not plan to provide specific responses to comments received. Where appropriate, DEQ will address concerns raised (e.g. will direct the relevant operator to make improvements to the designed storm water controls as necessary to meet the requirements of the permit). Depending on the nature of the issue and

the timing of the comments, DEQ will take appropriate action either prior to or following discharge authorization. In addition, DEQ may delay authorization if warranted, or may determine that the discharge is not eligible for authorization under this permit.

Operators of emergency related projects are considered provisionally covered under the permit immediately upon the start of construction, and unprovisionally covered 14 calendar days after DEQ acknowledges receipt of their NOI, unless DEQ notifies the operator that their authorization has been delayed or denied.

If the operator requests a waiver and submits a paper NOI, the 14 day period prior to permit coverage is the same as above, however, this period commences only after DEQ completes manual entry of the paper NOI information into the E-Permitting System. Note that if the paper NOI contains errors or is incomplete, this will result in delaying the commencement of the 14 day waiting period. DEQ will notify the operator of the start of the 14 day waiting period.

Section 1.4.5 describes the process for modifying an NOI if the operator needs to correct or update any fields

5. If, after submitting your NOI, you need to correct or update any fields, you may do so by submitting a Change NOI form using the IPDES E-Permitting System. Waivers from electronic reporting may be granted as specified in Section 1.4.2. If DEQ has granted you approval to submit a paper NOI modification, you may indicate any NOI changes on the same NOI form in Appendix H.

Section 1.4.6 describes the processes related to changing coverage for new ownership of a project.

6. When there is a change to the site's operator, the new operator must submit a new NOI, and the previous operator must submit a Notice of Termination (NOT) form as specified in section 8.3.

Section 1.4.7 describes how long permit coverage lasts.

7. Once covered under this permit, your coverage will last until:
   A. You terminate permit coverage consistent with Section 8 ("Terminating Coverage") in this permit.
   B. You receive permit coverage under a different IPDES permit or a reissued or replacement version of this permit after expiring on [permit expiration date]
   C. You fail to submit an NOI for coverage under a reissued or replacement version of this permit before the deadline for existing construction sites where construction activities continue after this permit has expired.
   D. You fail to pay the annual fee for permit coverage which remains delinquent in excess of one hundred eighty days.

If EPA's 2017 CGP is not reissued or replaced prior to the expiration date in 2022, it will be administratively continued in accordance with section 588(c) of the administrative Procedure Act (40 CFR 122.6) and remain in force and effect for discharges that were covered prior to its

expiration. All operators granted permit coverage prior to the expiration date of the permit will automatically remain covered by the 2022 CGP until the earliest of:

a. the authorization for coverage under a reissued or replacement version of the permit following the timely submittal of a complete and accurate NOI requesting coverage under the new permit. If a timely NOI for coverage under the reissued or replacement permit is not submitted, coverage will terminate on the date that the NOI was due; or

b. the date of the submittal of a complete and accurate NOT; or

c. issuance or denial of an individual permit for the operator's discharges; or

d. a final permit decision by DEQ not to reissue the CGP, at which time DEQ will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

DEQ reserves the right to modify or revoke and reissue the 2022 CGP, in which case the operator will be notified of any relevant changes or procedures to which operators may be subject.

Where DEQ fails to issue a final general permit prior to the expiration of a previous general permit, DEQ has the authority to administratively continue the permit for operators authorized to discharge under the prior general permit. IDAPA 58.01.25.101.03. However, DEQ does not have the authority to provide coverage to construction projects not already authorized to discharge under that prior general permit. Once the five year expiration date for this permit has passed, any such projects would need to obtain coverage under an individual permit, or other general permit that is in effect.

1.5 Requirement to Post a Notice of Your Permit Coverage

The requirement in Section 1.5 is to provide notice to the public, and any other interested parties, that discharges from the construction site are authorized by DEQ.

1. You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right of way.[10] At a minimum, the notice must include:

   A. The IPDES ID[11] (i.e., the permit tracking number assigned to your NOI and available on the DEQ webpage found here https://www2.deq.idaho.gov/water/ipdes);

   B. A contact name and phone number for obtaining additional construction site information;

[10] If the active part of the construction site is not visible from a public road, then place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

[11] When multiple operators are sharing a SWPPP on a project, each of their IPDES IDs must be included on the posted Notice of Permit Coverage.

C. The Uniform Resource Locator (URL) for the SWPPP (if available) or the following statement; "If you would like to obtain a copy of the SWPPP, contact the Site Representative above."; and

D. The following statement "if you observe indicators of storm water pollutants in the discharge or in the receiving waterbody, contact DEQ through the following website: https://www.deq.idaho.gov/about-us/contact-us/".

By providing notice of permit coverage and other information about the site, interested parties are more easily able to obtain information about the construction site, such as the SWPPP, and identify the site when reporting potential permit violations. Note that operators are only required to provide copies of the SWPPP, upon request, to DEQ, EPA, a tribal or local agency approving storm water management plans, the operator of a storm sewer system receiving discharges from the site, or representatives of the Services.

To improve transparency of the process to report possible violations, the notice of permit coverage must include information on how the public can contact DEQ if storm water pollution is observed in the discharge. When the active part of the construction site is not visible from a public road, operators must place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

1.6 Severability

Section 1.6 states that if any section of the permit is stayed, all parts of the permit that are not directly related to the stayed sections will be effective.

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.

2. Technology Based Effluent Limits

Section 2 organizes the storm water effluent limits into four sections:

- Section 2.1: General Storm Water Control Design, Installation, and Maintenance Requirements;
- Section 2.2 Erosion and Sediment Control Requirements;
- Section 2.3 Pollution Prevention Requirements; and
- Section 2.4 Construction Dewatering Requirements.

The storm water control requirements in Section 2 are the technology based effluent limits that apply to all discharges associated with construction activity eligible for permit coverage. The requirements in Section 2 generally apply the national effluent limits guidelines and new source performance standards in the C&D rule in 40 CFR 450. These requirements apply to all permitted sites, including construction support activities that are covered under the permit under Section 1.2.1.C.

An operator can minimize the discharge of pollutants from construction sites by satisfying the non-numeric effluent limitation guidelines at 40 CFR 450.21 and by using various controls and practices, outlined in more detail as permit limits by DEQ. EPA crafted the non-numeric effluent limitations guidelines in the C&D rule to allow flexibility in how the permitting authority implements these requirements in permits. Accordingly, this permit contains requirements that specifically implement or incorporate each of the C&D rule's non-numeric limits in order to minimize the discharge of pollutants from construction sites. This is consistent with DEQ's objective to write general permits with conditions that are clear, specific, and measurable. DEQ discusses the permit requirements and explains how the language is consistent with the non-numeric effluent limits in the C&D rule upon which they are based in the following sections.

2.1 General Storm water Control Design, Installation, and Maintenance Requirements

Section 2.1 establishes the overall principle for designing, installing, and maintaining storm water controls that work to minimize the discharge of pollutants from construction sites, as required in 40 CFR 450.21

> You must design, install, and maintain storm water controls required in Sections 2.2, 2.3, and 2.4 to minimize the discharge of pollutants in storm water from construction activities.[12] To meet this requirement, you must:

The CGP includes a clarifying footnote that addresses private vendors marketing their storm water control products as being endorsed or approved by the CGP. The footnote clarification reminds the public that "the permit does not dictate the type of storm water control to be used to comply with the requirements of this section, nor does it recommend or endorse specific products or vendors. The choice of the specific type of storm water control to use to comply with the requirements of this part is up to the operator."

Section 2.1.1 requires the operator to account for design factors that address the corresponding C&D rule requirements in 40 CFR 450.21(a)(2) and (5).

> **1. Account for the following factors in designing your storm water controls:**
>
> A. The expected amount, frequency, intensity, and duration of precipitation
>
> B. The nature of storm water runoff (i.e., flow) and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. You must design storm water controls to control storm water volume, velocity, and peak flow rates to minimize discharges of pollutants in storm water and to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.
>
> C. The soil type and range of soil particle sized expected to be present onsite.

It is important to consider precipitation characteristics so that earth disturbing activities can be planned during periods with a lower risk of precipitation and so that erosion and sediment control practices can be designed to convey and manage the precipitation that is expected to

[12] The permit does not dictate the type of storm water control to be used to comply with the requirements of this Section, nor does it recommend or endorse specific products or vendors. The choice of the specific type of storm water control to use to comply with the requirements of this Section is up to the operator.

occur. The requirement to design storm water controls to account for the nature of storm water discharges and run-on on the site and to reduce peak flowrates and total storm water is intended to minimize scouring and erosion caused by storm water discharges from the site. The requirements to account for soil characteristics, such as particle size distribution, erosivity, and cohesiveness, is also important for selecting and designing appropriate erosion and sediment controls.

Section 2.1.2 implements the C&D rule requirement to "install effective erosion and sediment controls."

2. **Design and install all storm water controls in accordance with good engineering practices, including applicable design specifications.**[13]

In order for storm water controls to be effective, they must be properly designed and installed. DEQ notes that design specifications may be found in manufacturer's specifications and/or in applicable erosion and sediment control manuals or ordinances. Additionally, where it is appropriate to depart from such specifications, such departures must reflect good engineering practice and must be explained in the SWPPP.

Section 2.1.3 is intended to ensure that storm water controls are installed and made operational to minimize pollutant discharges from the area of active disturbance.

3. Complete installation of storm water controls by the time each phase of construction has begun.

A. By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (e.g., buffers, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.[14]

B. Following the installation of these initial controls, install and make operational all storm water controls needed to control discharges prior to subsequent earth disturbing activities.

For example, prior to initial site clearing and grading activities, the operator must install perimeter controls, exit point controls, and, if applicable, storm drain inlet protections and natural buffers or equivalent sediment controls to control storm water discharges from the initial disturbances. After this initial work is completed, the operator must install and make operational other controls, such as sediment traps or sediment basins that are expected to treat storm water during the remaining phases of construction. Where a project is conducted in phases, such as for a large scale road project, the requirement is to install such controls prior to commencing earth

[13] Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practices and must be explained in your SWPPP. The explanation in the SWPPP can utilize manufacturer specifications to help explain the departures. You must also comply with any additional design and installation requirements specified for the effluent limits in Sections 2.2., 2.3, and 2.4.

[14] Note that the requirement to install stormwater controls prior to each phase of construction activities for the site does not apply to the earth disturbance associated with the actual installation of these controls. Operators should take all reasonable actions to minimize the discharges of pollutants during the installation of stormwater controls.

disturbing activities for a specific phase. After initial controls are installed, the operator must install and make operational any remaining storm water controls as conditions allow.

Section 2.1.4 implements the C&D rule requirements to "maintain effective erosion controls and sediment controls" at 40 CFR 450.21(a) and IDAPA 58.01.25.300.05 to "at all times properly operate and maintain all facilities and systems of treatment and control…"

4. **Ensure that all storm water controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness**.

   A. Comply with any specific maintenance requirements for the storm water controls listed in this permit, as well as any recommended by the manufacturer.[15]

   B. If at any time you find that a storm water control needs routine maintenance (i.e., a repair or replacement that can be completed by the end of the next business day), you must immediately initiate the needed maintenance work, and complete such work within 24 hours of initiating the maintenance. Where you must repeatedly (i.e., three or more times) make the same maintenance to the same control, or you find the storm water control was not installed or designed correctly in accordance with this section, you must complete corrective actions in accordance with Section 5.

   C. If at any time you find that a storm water control needs repair or replacement that will take more than 24 hours to complete, you must comply with the corrective action requirements in Section 5.

DEQ is aware that there is considerable confusion as to the difference between routine maintenance, as used in Section 2.1.4.B, and repairs or replacements to storm water controls that are considered corrective action, as used in Section 2.1.4.C. To remedy this confusion, and to improve compliance within the intended meaning of the permit, DEQ proposes defining routine maintenance in Section 2.1.4 as "a repair or replacement that can be completed within 24 hours." This definition is consistent with DEQ's intent that routine maintenance be completed by the end of the next day after the need for the repair or replacement is discovered. By contrast, if the needed repair or replacement will take more than 24 hours, the operator must treat this as a corrective action under Section 5. DEQ also clarifies that if the operator finds that they must repeatedly perform routine maintenance to the same control or that they find that the control was not installed or designed correctly, these problems must be treated as corrective actions under Section 5.

2.2 Erosion and Sediment Control Requirements

Section 2.2 implements the C&D rule's requirements at 40 CFR 450.21(a) to "design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants," as well as the requirements in 40 CFR 450.21(b) for soil stabilization.

You must implement erosion and sediment controls in accordance with the following

[15] Any departures from such maintenance recommendations made by the manufacturer must reflect good engineering practices and must be explained in your SWPPP.

requirements to minimize the discharge of pollutants in storm water from construction activities.

The specific subsections of the permit within Section 2.2 include requirements that articulate what is required of CGP operators in order to comply with this effluent limit established in the C&D rule.

Section 2.2.1 implements the C&D rule's requirement to minimize the discharge of pollutants form the site by providing and maintaining "natural buffers around waters of the United States…unless infeasible."

1. Provide and maintain natural buffers and/or equivalent erosion and sediment controls when a water of the U.S. is located within 50 feet of the site's earth disturbances.

A. Compliance alternatives. For any disturbance to waters of the U.S. located within 50 feet of your site's earth disturbances, you must comply with one of the following alternatives:

i. Provide and maintain a 50 foot undisturbed natural buffer; or

ii. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that, in combination, achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or

iii. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50 foot undisturbed natural buffer.

B. Exceptions. See Appendix E, Section E.2 for exceptions to the compliance alternatives.

This requirement applies to all project sites that are situated within 50 feet of a water of the U.S., with certain exceptions described in Appendix E of the permit. Appendix E provides guidance on which sites must comply with the buffer provision, and how to implement the different compliance alternatives.

Section 2.2.2 implements the C&D rule requirement at 40 CFR 450.21(a)(6). This requirement mandates reduction of the discharge of sediment and other pollutants through filtration and infiltration.

2. Direct storm water to vegetated areas and maximize storm water infiltration and filtering to reduce pollutant discharges, unless infeasible.

Operators can comply with this requirement by directing non-erosive flows leaving silt fences, filter berms, or other perimeter controls and sediment basins to natural buffers adjacent to streams or other vegetated areas on or adjacent to the property on which the construction activities will occur. Note that some site operators have found the use of level spreaders or other practices to be effective to prevent erosive discharges. These practices will help to prevent the formation of gullies and associated erosion. Examples of where it may be infeasible to direct discharges from storm water controls to vegetated areas include those areas where pervious or vegetated areas within the project footprint are non-existent, such as in some highly urban areas.

Section 2.2.3 implements the C&D rule's requirements to "install effective erosion and sediment controls."

3. Install sediment controls along any perimeter areas of the site that are downslope from any exposed soil or other disturbed areas.[16]

A. The perimeter control must be installed upgradient of any natural buffers established under Section 2.2.1 unless the control is being implemented pursuant to Section 2.2.1.A.

B. To prevent storm water from circumventing the edge of the perimeter control, install the perimeter control on the contour of the slope and extend both ends of the control up slope forming a crescent rather than a straight line.

C. After installation, to ensure that perimeter controls continue to work effectively:

i. Remove sediment before it has accumulated to one-half of the above ground height of any perimeter control, and

ii. After a storm event, if there is evidence of storm water circumventing or undercutting the perimeter control, extend controls and/or repair undercut areas to fix the problem.

D. Exception. For areas at linear construction sites as defined in Appendix A, where perimeter controls are infeasible, implement other practices as necessary to minimize pollutant discharges to perimeter areas of the site.

The requirement instructs operators as to where downslope sediment controls should be installed so that they are effectively situated to minimize the discharge of pollutants from the site. The permit clarifies the description of where perimeter controls must be installed by specifying that they be installed "downslope from any exposed soil or other disturbed areas." This represents a slight change from the EPA 2017 CGP, which emphasized that the controls be installed along perimeter areas that "will receive pollutant discharges." While the location on the site where perimeter controls are required remains the same, DEQ views this change as offering a clearer way of describing where the perimeter controls must be installed.

DEQ understands that there is confusion about whether perimeter controls are necessary under Section 2.2.3 when the operator is already providing a natural buffer in accordance with Section 2.2.1. To address this confusion, DEQ clarifies that perimeter controls must be installed upgradient of any natural buffers established under Section 2.2.1. The only exception to this requirement would be for situations where the permittee is using the perimeter control to fulfill the buffer alternative requirement in Section 2.2.1.A.ii or iii, in which case the permittee would not be required to install a second perimeter control in addition to the one installed to meet the section 2.2.1.A.ii or iii requirement.

DEQ also proposes adding additional perimeter control installation and maintenance requirements that are focused on ensuring that these controls continue to work effectively. One added provision would require the operator to "install the perimeter control on the contour of the slope and extend both ends of the control up slope forming a crescent rather than a straight line." The purpose of this requirement is to prevent storm water from flowing around the sides of the

[16] Examples of perimeter controls include filter berms, different types of silt fences such as wire-backed, super silt fence, or multi-layer geotextile silt fence, compost filter socks, gravel barriers, and temporary diversion dikes.

perimeter controls. This requirement is consistent with existing standards for the design of common perimeter controls.

The permit also includes one new provision specifically focused on proper maintenance of perimeter controls. Under the proposed provision, the operator would be required after a storm event to extend the perimeter control or repair any undercut areas, whichever applies, if there is evidence of storm water circumventing or undercutting the control. The permit retains the requirement from previous EPA CGPs to remove sediment before it has accumulated to one half of the above ground height of any perimeter control. These requirements implement the C&D rule requirement to "maintain effective erosion controls and sediment controls."

The requirement in 2.2.3.D provides flexibility for linear construction sites by allowing them to document in the SWPPP when it is infeasible to install perimeter controls in certain areas of the site, and instead allowing the use of other types of practices that will adequately minimize pollutant discharges to perimeter areas of the site. DEQ established this provision in order to recognize that for some linear projects, perimeter controls are not always feasible, and that other types of practices can be employed to minimize pollutant discharges. For example, in urban areas where, due to right of way limitations, perimeter controls could cause a safety hazard to vehicles and/or pedestrians, perimeter controls may not be feasible. Other practices that could be implemented to minimize pollutant discharges from perimeter areas for these types of sites could include conducting earth disturbances only on days when no precipitation will occur; limiting disturbances and stabilizing areas of exposed soil immediately; and avoiding disturbances to environmentally sensitive areas. The types of other practices to be implemented to adequately minimize pollutant discharges from perimeter areas must be based on site-specific conditions and reflect good engineering judgment.

While perimeter controls may not be feasible in the above circumstances, operators are reminded of the requirement under Section 2.1.1 to account for the required design factors for their storm water controls and their overall obligation in Section 2 to minimize sediment discharges. In addition, the operator must ensure that sediment and other pollutants, which may escape the area of disturbance onto off-site streets, other paved areas, and sidewalks, are removed consistent with the mitigation requirements in Section 2.2.4.D.

DEQ also notes that Section 2.2.3 only applies along any perimeter areas of the site that will receive pollutant discharges. If a portion of the construction site's perimeter area is not downslope from an area of earth disturbance, perimeter controls are not required in that portion of the site. Therefore, for instance, perimeter controls are not necessary in the perimeter area surrounding the following types of construction activities relating to linear projects:

- Pole sites where only overhead work is conducted;
- Use of pre-existing access roads or pad areas where no expansion or below-grade improvements (e.g. no new earth disturbances) will occur; and
- Areas where vegetation is left in place but needs to be trimmed (e.g. mowing, weed whacking, etc.) to allow temporary access (e.g. overland travel) or use of a site (e.g. wire stringing site). In such circumstances, the ground cover (i.e. grasses and other low-growing vegetation, such as mosses, ferns, vines, shrubs, herbaceous plants, and root mats that are planted or that naturally occur) is retained and no grading occurs.

Section 2.2.4 explains the requirements that will result in the minimization of sediment that has been tracked out from the site onto paved surfaces and subsequently discharged in storm water.

4. Minimize sediment track out

A. Restrict vehicle use to properly designated exit points;

B. Use appropriate stabilization techniques[17] at all points that exit onto paved roads.

Exception: Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls[18] are implemented to minimize sediment track out.

C. Implement additional track out controls[19] as necessary to ensure that sediment removal occurs prior to vehicle exit, and

D. Where sediment has been tracked out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track out occurs. Remove the track out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked out sediment into any storm water conveyance, storm drain inlet, or water of the U.S.[20]

The requirement to restrict vehicle use to properly designated exit points in (A) above, the requirement for appropriate stabilization techniques at all points that exit onto paved roads in (B) above, and the requirement for the use of additional controls as necessary to ensure that sediment removal occurs prior to vehicle exit in (C) above, implement the C&D rule requirements to "minimize sediment discharges from the site." The requirement in (B) above also implements the C&D rule requirement to "minimize the amount of soil exposed during construction activity." The requirement in (D) above implements the C&D rule requirements to "minimize sediment discharges" and the requirement to "minimize the discharge of pollutants from equipment and vehicle washing…"

Section 2.2.5 requires permittees to control discharges from stockpiled sediment or soil to prevent the discharge of sediment from stockpiled soil and dirt on the site.

[17] Examples of appropriate stabilization techniques include the use of aggregate stone with an underlying geotextile or non-woven filter fabric, and turf mats.

[18] Examples of other exit point controls include preventing the use of exit points during wet periods; minimizing exit point use by keeping vehicles onsite to the extent possible; limiting exit point size to the width needed for vehicle and equipment usage; using scarifying and compaction techniques on the soil; and avoiding establishing exit points in environmentally sensitive areas (e.g. karst areas, steep slopes).

[19] Examples of additional track-out controls include the use of wheel washing, rumble strips, and rattle plates.

[20] Fine grains that remain visible (e.g. staining) on the surfaces of off-site streets, other paved areas, and sidewalks after you have implemented sediment removal practices are not a violation of Section 2.2.4.

5. Manage stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil.[21]

A. Locate the piles outside of any natural buffers established under Section 2.2.1 and away from any storm water conveyances, drain inlets, and areas where storm water flow is concentrated.

B. Install a sediment barrier along all downgradient perimeter areas of sediment or soil stockpiles or land clearing debris piles.[22]

C. For piles that will be unused for 14 or more days, provide cover[23] or appropriate temporary stabilization.

D. You are prohibited from hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any storm water conveyance, storm drain inlet, or water of the U.S.

DEQ adds a clarification as part of the proposal to make it clear that this provision applies only to sediment or soil stockpiles or land clearing debris piles. The proposed footnote clarifies that the provision does not apply to the storage of rock, such as rip rap, landscape rock, pipe bedding gravel, and boulders. Requirements for these materials are found in Section 2.3.3.A.

The required use of "appropriate temporary stabilization" when a pile will be unused ensures that pollutant discharges are minimized as a result of storm events, while at the same time it addresses the practicability of these controls by limiting this requirement to times when the piles are inactive. It is DEQ's judgment that cover or appropriate cover or appropriate temporary stabilization for these piles, such as tarps, blown straw, and hydroseeding, are all readily available and common erosion and sediment control products and technologies that operators will likely already be using to comply with the stabilization requirements in Section 2.2.14. The use of these technologies for covering or temporarily stabilizing stockpiles when piles are inactive poses a small incremental cost relative to the total cost of all other storm water controls on the site. In addition, some cover technologies, such as tarps, can be reused multiple times on the same site due to their durability and longevity.

Section 2.2.6 requires permittees to minimize the discharge of sediment in storm water from the generation of dust.

6. Minimize dust. On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in storm water from the site.

[21] The requirements in Section 2.2.5 do not apply to the storage of rock, such as rip rap, landscape rock, pipe bedding gravel, and boulders. Refer to Section 2.2.3.A for the requirements that apply to these types of materials.

[22] Examples of sediment barriers include berms, dikes, fiber rolls, silt fences, sandbags, gravel bags, or straw bale.

[23] Examples of cover include tarps, blown straw, and hydroseeding.

Dust suppression techniques prevent dust from being generated, minimizing the potential for the dust to accumulate where it is likely to discharge from the site in storm water discharges.

Section 2.2.7 implements the C&D rule requirement to "minimize the disturbance of steep slopes."

7. Minimize steep slope disturbances. Minimize the disturbance of steep slopes (as defined in appendix A).

The permit does not prevent or prohibit disturbance on steep slopes. DEQ recognizes that for some projects, disturbance on steep slopes may be necessary for construction (e.g. a road cut in mountainous terrain). If disturbances to steep slopes are required for the project, DEQ would recognize that it is not feasible to avoid the disturbance of steep slopes. DEQ also notes that the requirement to minimize the disturbance of steep slopes does not apply to the creation of soil stockpiles.

Section 2.2.8 implements the C&D rule requirement to preserve topsoil, unless infeasible.

8. Preserve native topsoil, unless infeasible.[24]

The requirement to preserve topsoil will help to maintain the soil structure on construction sites and provides a growing medium for vegetative stabilization measures. Better vegetative stabilization reduces erosion rates of the underlying soil and also increases the infiltrative capacity of the soil, thereby reducing the amount of sediment transported to downslope sediment and perimeter controls. Topsoil can be preserved by stockpiling the native topsoil on the site for later use (e.g. for vegetative stabilization), or by limiting disturbance and removal of the topsoil and associated vegetation. For example, topsoil can be preserved by limiting clearing and grading to only those areas where necessary to accommodate the building footprint. DEQ notes that some projects may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases, DEQ recognizes that preserving topsoil at the site would not be feasible. In addition, some sites may not have space to stockpile topsoil on site for later use, in which case, it may also not be feasible to preserve topsoil. DEQ is aware that stockpiling of topsoil in off-site locations, or transfer of topsoil to other locations, is frequently used in these situations and DEQ would view this as acceptable practice. However, DEQ notes that storm water discharges from any construction support activities meeting the requirements of Section 1.2.1.C will be subject to the permit requirements.

Section 2.2.9 implements the C&D rule requirement to "minimize soil compaction." The requirement is intended to allow for infiltration and retention of storm water to reduce storm water discharge volume and velocity.

9. Minimize soil compaction.[25] In areas of your site where final vegetative stabilization will

[24] Stockpiling topsoil at off-site locations, or transferring topsoil to other locations, is an example of practice that is consistent with the requirements in Section 2.2.8. Preserving native topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed. For example, some sites may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain, or may not have space to stockpile native topsoil on site for later use, in which case it may not be feasible to preserve topsoil.

occur or where infiltration practices will be installed:

A. Restrict vehicle and equipment use in these locations to avoid soil compaction; and

B. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth.

To comply with this requirement, operators may either restrict vehicle and equipment use on areas that will use vegetation to stabilize or where infiltration practices will be employed, or use soil conditioning techniques to decompact soils to support vegetative growth. Specific types of soil conditioning techniques could include deep ripping and decompaction or sub-soiling. DEQ also notes that the requirement to minimize soil compaction does not apply to areas that will not be used for final vegetative stabilization or for areas where infiltration practices will not be installed. For example, the requirements do not apply to disturb areas that will become paved surfaces, such as roads, foundations, footings, or on embankments, or on areas where soil compaction is necessary by design.

Section 2.2.10 implements the C&D rule requirement to "minimize sediment discharges from the site" by requiring storm water inlets to be protected with sediment controls during construction.

10. Protect storm drain inlets.

A. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that carries storm water from your site to a water of the U.S., provided you have authority to access the storm drain inlet;[26] and

B. Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

Inlet protection measures prevent sediment laden storm water from being discharged into storm drains, and ultimately surface waters. The maintenance requirements in 2.2.10.B support the need for the inlet measures to be kept in working condition so that they are effective at preventing the discharge of pollutants. Note that inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

Note that DEQ requires installation of inlet protection measures to any storm drain inlet that carries storm water flow from the site to a water of the U.S. that you have authority to access, even if it is first directed to a sediment basin, sediment trap, or similarly effective controls. DEQ is concerned that if the sediment basin, sediment trap, or similarly effective controls were to be compromised, unprotected inlets that receive storm water from these controls would also be compromised.

[25] Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.

[26] Inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

Section 2.2.11 implements the C&D rule requirements to "control storm water discharges…to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points."

11. Control storm water discharges, including both peak flowrates and total storm water volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.[27]

Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g. check dams, sediment traps), within and along the length of a storm water conveyance and at the outfall to slow down runoff.

Section 2.2.12 outlines the requirements that will apply to installation of sediment basins or similar impoundments.

12. If you install a sediment basin or similar impoundment;

A. Situate the basin or impoundment outside of any water of the U.S. and any natural buffers established under section 2.2.1;

B. Design the basin or impoundment to avoid collecting water from wetlands;

C. Design the basin or impoundment to provide storage for either; the calculated volume of storm water from a 2-year, 24-hour storm or 3,600 cubic feet per acre drained;

D. Utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;[28]

E. Use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and

F. Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure the basin or impoundment remains in effective operating condition.

Sediment basins are used on construction sites to minimize sediment discharges. They are typically placed at or near low points of drainage ways in order to temporarily detain storm water discharges, allowing sediment particulates to settle. Sediment basins are also designed to reduce peak flowrates, reducing downstream flooding and channel erosion. At the point of discharge, which is typically a pipe or channel, installation of riprap or other stabilization measures is often necessary because the concentrated discharge can cause erosion and additional pollutant discharges to waters of the U.S. Sediment basins are also designed to reduce flow duration

[27] Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g. check dams, sediment traps), within and along the length of a storm water conveyance and at the outfall to slow down storm water.

[28] The circumstances in which it is infeasible to design outlet structures in this manner are rare. Exceptions may include areas with extended cold weather, where using surface outlets may not be feasible during certain time periods (although they must be used during other periods). If you determine that it is infeasible to meet this requirement, you must provide documentation in your SWPPP to support your determination, including the specific conditions or time periods when this exception will apply.

impacts by reducing the total volume of storm water being discharged or by providing extended detention to reduce discharge rates. The purpose of the requirements in this section is to provide specific design and maintenance requirements for the proper implementation of sediment basins, if used on a site.

The requirements in 2.2.12.A and B are design specifications. The requirement in 2.2.12.D implements the C&D rule requirement: "when discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible." DEQ notes in the permit that the circumstances in which it will be infeasible to design outlet structures in this manner should be rare. Exceptions may include areas with extended cold weather and where using surface outlets may not be feasible during certain time periods (although it is expected that they would be used during other periods). If the operator determines that it is infeasible to meet this requirement, the operator must provide documentation in the SWPPP to support its determination, including the specific conditions or time periods when this exception will apply.

DEQ also includes a requirement, 2.2.12.E, to prevent erosion of the sediment basin and the inlet and outlet to implement the C&D rule requirement to "design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants," and the requirement to "control storm water discharges…to minimize the channel and streambank erosion and scour in the immediate vicinity of discharge points." The requirement in 2.2.12.F implements the C&D rule requirement to "maintain effective erosion controls and sediment controls to minimize the discharge of pollutants."

Section 2.2.13 establishes the minimum requirements that apply to the use of treatment chemicals at permitted construction sites. As specified in Section 1.1.8, use of some flocculants require prior DEQ approval.

13. If using treatment chemicals (e.g., polymers, flocculants, coagulants), including pre-approved cationic chemicals as specified in Section 1.1.8:

A. Use conventional erosion and sediment controls before and after the application of treatment chemicals. Chemicals may only be applied where treated storm water is directed to a sediment control before discharge;

B. Select appropriate treatment chemicals. Chemicals must be appropriately suited to the types of soils likely to be exposed during construction and present in the discharges being treated;

C. Minimize discharge risk from stored chemicals. Store all treatment chemicals in leak-proof containers that are kept under storm resistance cover and surrounded by secondary containment structures, or provide equivalent measures designed and maintained to minimize the potential discharge of treatment chemicals in storm water or by any other means (e.g., storing chemicals in a covered area, having a spill kit available onsite and ensuring personnel are available to respond expeditiously in the event of a leak or spill);

D. Comply with state/local requirements. Comply with applicable state and local requirements regarding the use of treatment chemicals;

E. Use chemicals in accordance with good engineering practices and specifications of the chemical manufacturer/supplier. Use treatment chemicals and chemical treatment

systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the manufacturer/supplier of the applicable chemicals, or document in your SWPPP specific departures from these specifications and how they reflect good engineering practice;

F. Ensure proper training. Ensure that all persons who handle and use treatment chemicals at the construction site are provided with appropriate, product-specific training prior to beginning application of treatment chemicals. Among other things, the training must cover proper dosing requirements; and

G. Perform additional measures specified by DEQ for the authorized use of cationic chemicals. If you have been authorized to use cationic chemicals at your site pursuant to Section 1.1.8, you must perform all additional measures as conditioned by your authorization to ensure that the use of such chemicals will not cause an exceedance of WQS.

Section 2.2.14 implements the C&D rule requirement for soil stabilization in 40 CFR 450.21(b) that requires the operator to implement and maintain stabilization measures that minimize erosion from exposed portions of the site.

14. Stabilize exposed portions of the site. Implement and maintain stabilization measures that minimize erosion from exposed portions of the site in accordance with Sections 2.2.14.A and 2.2.14.B.

A. Stabilization deadlines.[29]

Table 3. Site Stabilization Deadlines

Total amount of land disturbance occurring at any one time[30]	**Deadline**
Five acres or less	• Initiate the installation of stabilization

[29] DEQ may determine, based on an inspection carried out under Section 4.8 and corrective actions required under Section 5.3, that the level of sediment discharge on the site requires a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing storm water controls, DEQ may require stabilization to correct this problem.

[30] Limiting disturbances to five acres or less at any one time means that at no time during the project do the cumulative earth disturbances exceed five acres. The following examples would qualify as limiting disturbances at any one time to five acres or less:

1. The total area of disturbance for a project is five acres or less
2. The total area of disturbance for a project will exceed five acres, but the operator ensures that no more than five acres will be disturbed at any one time through implementation of stabilization measures. Site stabilization can be used to consider areas no longer disturbed, so that the five acre cap is not exceeded to require 14-day stabilization deadlines. For instance, if an operator completes stabilization of two acres of land on a five acre disturbance, then two additional acres could be disturbed while still qualifying for longer than 14 day stabilization deadlines.

Note: this includes sites disturbing more than five acres total over the course of a project, but that limit disturbance at any specific time to five acres or less	measures immediately[31] in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days[32]; and • Complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated[33].
More than five acres	• Initiate the installation of stabilization measures immediately[34] in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days[35]; and • Complete the installation of stabilization measures as soon as practicable, but no later than seven calendar days after stabilization has been initiated.[36]

B. Stabilization Exceptions.

i. Arid, semi-arid, and drought stricken areas (as defined in Appendix A). If it is the seasonally dry period or a period in which drought is occurring, and vegetative stabilization measures are being used:

[31] The following are examples of activities that would constitute the immediate initiation of stabilization;
1. Prepping the soil for vegetative or non-vegetative stabilization as long as seeding, planting, and/or installation of non-vegetative stabilization products takes place as soon as practicable, but no later than one calendar day of completing soil preparation;
2. Applying mulch or other non-vegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the activities in 1-3 on a portion of the entire area that will be stabilized; and
5. Finalizing arrangements to have stabilization product fully installed in compliance with the deadlines for completing stabilization.

[32] The requirement to initiate stabilization immediately is triggered as soon as you know that construction work on a portion of the site is temporarily ceased and will not resume for 14 or more days or as soon as you know that construction work is permanently ceased. In the context of this provision, "immediately" means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.

[33] If vegetative stabilization measures are being implemented, stabilization is considered "installed" when all activities necessary to seed or plant the area are completed. If non-vegetative stabilization measures are being implemented, stabilization is considered "installed" when all such measures are implemented or applied.

[34] See note 30

[35] See note 31

[36] See note 32.

a. Immediately initiate and, within 14 calendar days of temporary or permanent cessation of work in any portion of your site, complete the installation of temporary non-vegetative stabilization measures to the extent necessary to prevent erosion;

b. As soon as practicable, given conditions or circumstances on the site, complete all activities necessary to seed or plant the area to be stabilized; and

c. If construction is occurring during the seasonally dry period, indicate the beginning and ending dates of the seasonally dry period and your site conditions in your SWPPP. Also include the schedule you will follow for initiating and completing vegetative stabilization.

ii. Unforeseen circumstances. Operators that are affected by unforeseen circumstances[37] that delay the initiation and/or completion of vegetative stabilization:

a. Immediately initiate and, within 14 calendar days, complete the installation of temporary non-vegetative stabilization measures to prevent erosion;

b. Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on your site; and

c. Document in the SWPPP the circumstances that prevent you from meeting the deadlines in Section 2.2.14.A and the schedule you will follow for initiating and completing stabilization.

iii. Discharges to a sediment or nutrient impaired water or to surface water that is identified by Idaho as Tier II, or Tier III for antidegradation purposes. Complete stabilization as soon as practicable, but no later than seven calendar days after stabilization has been initiated.

C. Final Stabilization Criteria (for any areas not covered by permanent structures):

i. Establish uniform, perennial vegetation (i.e., evenly distributed, without large bare areas) that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas; and/or

ii. Implement permanent non-vegetative stabilization measures[38] to provide effective cover.

iii. Exceptions:

a. **Arid, semi-arid, and drought-stricken areas** (as defined in appendix A). Final stabilization is met if the area has been seeded or planted to establish vegetation that provides 70 percent or more of the cover that is provided by vegetation native

[37] Examples include problems with the supply of seed stock or with the availability of specialized equipment and unsuitability of soil conditions due to excessive precipitation and/or flooding.

[38] Examples of permanent non-vegetative stabilization measures include riprap, gravel, gabions, and geotextiles.

to local undisturbed areas within three years and, to the extent necessary to prevent erosion on the seeded or planted area, non-vegetative erosion controls have been applied that provide cover for at least three years without active maintenance.

b. **Disturbed areas on agricultural land that are restored to their preconstruction agricultural use.** Section 2.2.14.C final stabilization criteria do not apply.

c. **Areas that need to remain disturbed.** In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials).

Starting with the EPA 2012 CGP, EPA used a definition for "stabilization" as "the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process." Appendix A defines "temporary stabilization" and "final stabilization" as follows:

- "temporary stabilization" means a condition where exposed soils or disturbed areas are provided temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.
- "final stabilization" means that, on areas not covered by permanent structures, either (1) uniform, perennial vegetation (e.g. evenly distributed, without large bare areas) has been established, or for arid or semi-arid areas, will be established, that provides 70 percent or more of the cover that is provided by vegetation common to local undisturbed areas, and/or (2) permanent non-vegetative stabilization measures (e.g. riprap, gravel, gabions, and geotextiles) have been implemented to provide effective cover for exposed portions of the site.

In the C&D rule, EPA emphasizes the importance of effective and speedy stabilization of soils exposed throughout the construction process in order to reduce the amount of soil eroded on construction sites and the amount of sediment and other pollutants discharged from the site. EPA indicates in the rule that initiating soil stabilization measures immediately after land has been disturbed and construction activity has ceased is an important non-numeric effluent limit. EPA also states that it "sees no compelling reason why permittees cannot take action immediately to stabilize disturbed soils on their sites." EPA also observes that erosion control measures, such as mulch, are readily available and operators need only plan accordingly to have appropriate materials and laborers present when needed.

Furthermore, "simply providing some sort of soil cover on these areas can significantly reduce erosion rates, often by an order of magnitude or more. Vegetative stabilization using annual grasses is a common practice used to control erosion. Physical barriers such as geotextiles, straw, rolled erosion control products and mulch and compost are also commonly used. These materials

and methods are intended to reduce erosion where soil particles can be initially discharged on a C&D site, either from rainfall, snow melt, or up-slope runoff."

The permit carries forwards these important principles and factors by incorporating specific provisions intended to implement the C&D rule's stabilization deadline requirements.

Deadline to Initiate Stabilization

The permit specifies that the operator must initiate the installation of soil stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or are temporarily inactive for 14 or more calendar days. DEQ explains in the permit that, for the purposes of this provision, the term "immediately" as used to define the deadline for initiating stabilization measures, means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.

The permit also provides examples of activities that would constitute the immediate initiation of stabilization.

1. Prepping the soil for vegetative or non-vegetative stabilization as long as seeding, planting, and/or installation of non-vegetative stabilization products takes place as soon as practicable, but no later than 1 calendar day of completing soil preparation.
2. Applying mulch or other non-vegetative product to the exposed area.
3. Seeding or planting the exposed area.
4. Starting any of the activities in 1.3 on a portion of the entire area that will be stabilized.
5. Finalizing arrangements to have stabilization product fully installed in compliance with the deadlines for completing stabilization.

It is important to clarify the C&D rule requirement by specifying what it means to have construction activities temporarily or permanently cease. It is also important for construction operators to understand that stabilization must begin immediately when there is no justification for leaving areas exposed. For example, if 14 days will pass between the time when clearing and grading has been completed and further construction activities will occur, there is no reason why the exposed portions of the site cannot be stabilized temporarily to prevent erosion and sediment discharge during the time of inactivity on any portion of the site. DEQ clarifies that the initiation of stabilization means that the operator has taken action to implement the stabilization measures, including, for example, finalizing arrangements to have the stabilization product delivered, scheduling the installation of the product, and/or prepping the soil.

Deadline to Complete Stabilization

The C&D rule, at 40 CFR 450.21(b), requires that a deadline to complete stabilization be established by each permit authority. As the permit authority for this CGP, DEQ has established what it deems to be a reasonable and unambiguous deadline for completing stabilization procedures. The CGP's stabilization deadlines are based on the concept of phasing construction disturbances. The intent of this approach is to provide an incentive to disturb less land at any given period of time by providing longer stabilization timeframes if the disturbance is kept below

a threshold level. The approach described below also provides improved protection against erosion, by ensuring that large disturbed areas are stabilized sooner. This approach is also consistent with the C&D rule requirement at 40 CFR 450.21(a)(3) to "minimize the amount of soil exposed during construction activity."

The permit specifies that for sites that disturb a total of five acres or less at any one time over the course of a project, the operator must complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated. This includes sites disturbing more than five acres total over the course of a project, but that limit disturbance at any one time to five acres or less. For sites that will disturb more than a total of five acres at any one time over the course of a project, the operator must complete the installation of stabilization measures as soon as practicable, but no later than 7 calendar days after stabilization has been initiated. The deadline for sites discharging to sensitive waters remains unchanged from the EPA 2012 CGP (within 7 calendar days), and the exceptions for sites in arid, semi-arid, and drought stricken areas and for operator affected by circumstances beyond their control also remain unchanged from the EPA 2012 CGP.

DEQ notes that DEQ may determine, based on an inspection carried out under Section 4.8 and corrective actions required under Section 5.3, that the level of sediment discharge on the site makes it necessary to require a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing storm water controls, DEQ may require stabilization to correct this problem.

For the purposes of the stabilization deadline requirements in section 2.2.14.A, "limiting disturbances to five acres or less at any one time" means that at no time during the project do the cumulative earth disturbances exceed five acres. The permit provides the following examples as limiting disturbances at any one time to five acres or less:

1. The total area of disturbance for a project is five acres or less.
2. The total area of disturbance for a project will exceed five acres, but the operator ensures no more than five acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to "free-up" land that can be disturbed without exceeding the five acre cap to qualify for the14 day stabilization deadline. For instance, if an operator complete stabilization of two acres of land on a five acre disturbance, then two additional acres could be disturbed while still qualifying for the longer 14 day stabilization deadline.

Furthermore, the stabilization deadline for a site will change if disturbances exceed five acres. The important determiner of which stabilization deadline applies is the total amount of disturbance occurring at any one time during the course of the project. If at any point during the course of the project, total land disturbance exceeds five acres, the deadline to complete stabilization for this portion of the project is within seven calendar days of initiating stabilization. This deadline applies regardless of the fact that a previous phase of construction may have limited disturbance to five acres or less and was able to take advantage of the 14 day deadline for stabilization. For instance, if an operator commences work on a 20 acre project by clearing and grading a five acre portion of the site, and while that construction is ongoing and prior to stabilization the operator clears and grades another three acre area, the operator must

comply with the seven day stabilization deadline because the amount of disturbed area on the site at any one time exceeds the five acre threshold. If total land disturbance at any one time is subsequently reduced to five acres or less, the deadline to complete stabilization will return to the 14 day deadline. Therefore, operators have the flexibility to disturb more land when necessary, but must stabilize faster because more land is unprotected and vulnerable to erosion and sediment transport during storm events. This approach intends to provide the incentive to stabilize enough land to bring total disturbance at any one time back under the five acre threshold so that the operator can resume receiving the benefit of the longer 14 day stabilization deadline. The approach is also intended to ensure greater protection for larger areas of site disturbance.

DEQ incorporates by reference the discussion from the EPA 2017 CGP fact sheet in the section "Background on the Development of the Modified Stabilization Deadlines" pages 43 through 45.

Exceptions to the deadlines for initiating and completing stabilization

DEQ notes that with respect to the exception to the final stabilization criteria for restored agricultural areas, the permit retains the requirement from the EPA 2017 CGP that areas that were not previously used for agricultural activities, and area that are not being returned to preconstruction agricultural use, are not covered by the exception in Section 2.2.14.B.iii and must meet the conditions for stabilization.

DEQ acknowledges that some portions of some projects are intended to be left unvegetated or unstabilized following construction. An example would be a dirt access road or a utility pole pad where the final plan calls for the area to remain a dirt road or an unstabilized pad. DEQ does not expect temporary or permanent stabilization measures to be applied to these areas. DEQ notes that for the purposes of this permit, "exposed portions of your site" means areas of exposed soil that are required to be stabilized.

Section 2.2.14.B of the permit includes exceptions to the permit's default stabilization deadlines for arid, semi-arid, and drought stricken areas. DEQ notes that it has included suggested references for construction operators to use to help determine if they are located in an arid or semi-arid area, and may therefore be eligible for the alternative stabilization timeframes that apply in those areas. These references are included in Appendix A of the proposed permit in the definitions of "arid area" and "semi-arid area."

DEQ notes that it has included a definition in Appendix A for what the permit considers to be the "seasonally dry period" for arid, semi-arid, and drought stricken areas. See detailed discussion in Section VI of the fact sheet related to the changes to Section 4.4.2 of the permit, as well as the seasonally dry period definition in Appendix A.

2.3 Erosion and Sediment Control Requirements

Section 2.3 implements the C&D rule requirements in 40 CFR 450.21(d) and (e) for pollution prevention measures and prohibited discharges.

> You must implement pollution prevention controls in accordance with the following requirements to minimize the discharge of pollutants in storm water and to prevent the discharge of pollutants from spilled or leaked materials from construction activities.

Section 2.3.1 implements the 40 CFR 450.21(d)(3) requirement to minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response

procedures" and the 40 CFR 450.21(e)(3) requirement prohibiting the discharge of "fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance."

1. For equipment and vehicle fueling and maintenance:

A. Provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuels and oils, from these activities;[39]

B. If applicable, comply with the Oil Pollution Prevention requirements in 40 CFR part 112, Clean Water Act Section 311 and IDAPA 58.01.02.851

C. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;

D. Use drip pans and absorbents under or around leaky vehicles;

E. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements; and

F. Clean up spills or contaminated surfaces immediately, using dry clean up measures (do not clean contaminated surfaces by hosing the area down), and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

Examples of effective means of eliminating the discharge of spilled or leaked chemicals include, but are not limited to, locating activities away from waters of the U.S. and storm water inlets or conveyances so that storm water coming into contact with these activities cannot reach waters of the U.S.; providing secondary containment (e.g. spill berms, decks, spill containment pallets) and cover where appropriate; and having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

Section 2.3.2 implements the 40 CFR 450.21(d)(1) requirement to "minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge."

2. For equipment and vehicle washing:

A. Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of wash waters;[40]

[39] Examples of effective means include:

- Locating activities away from waters of the U.S. and stormwater inlets or conveyances so that stormwater coming into contact with these activities and cannot reach waters of the U.S.;
- Providing secondary containment (e.g. spill berms, dikes, spill containment pallets) and cover where appropriate; and
- Having a spill kit available onsite and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

B. Ensure there is no discharge of soaps, solvents or detergents in equipment and vehicle wash water; and

For storage of soaps, detergents or solvents, provide either cover (plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to storm water or a similarly effective means designed to minimize the discharge of pollutants from these areas.

The requirement that operators must properly manage wash waters reduces the discharge of pollutants, such as sediment and other pollutants, from the site. Examples provided in the permit for providing an effective means of minimizing the discharge of pollutants from the washing of equipment or vehicles include, but are not limited to, locating activities away from surface waters and storm water inlets or conveyances and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls. This requirement also implements the 40 CFR 450.21(e)(4) prohibition against discharging soaps or solvents, and is consistent with the eligibility condition that allows the use of non-storm water wash waters as long as they do not contain soaps, solvents, or detergents.

Section 2.3.3 requires operators to comply with specific pollution prevention standards for activities that may result in pollutant discharges.

3. For storage, handling, and disposal of building products, materials, and wastes:

A. For building materials and building products,[41] provide either cover (plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to storm water or a similarly effective means designed to minimize the discharge of pollutants from these areas.

Minimizing exposure is not required in cases where the exposure to precipitation and to storm water will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of storm water contamination (such as final products and materials intended for outdoor use).

B. For pesticides, herbicides, insecticides, fertilizers, and landscape materials:

i. In storage areas, provide either cover (plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to storm water or a similarly effective means designed to minimize the discharge of pollutants from these areas.

ii. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label.

[40] Examples of effective means include locating activities away from waters of the U.S. and storm water inlets or conveyances and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls.

[41] Examples of building materials and building products typically present at construction sites include asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures, and gravel and mulch stockpiles.

C. For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:

i. Store chemicals in water-tight containers;

ii. Store containers a minimum of 50 feet from waters of the U.S., drainage system, and storm drain inlets;

iii. If stored outside, use a spill containment pallet or similar device to capture small leaks or spills; and

iv. Have a spill kit available onsite that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond expeditiously in the event of a leak or spill.

v. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.

D. For hazardous or toxic wastes:[42]

i. Separate hazardous or toxic waste from construction and domestic waste;

ii. Store waste in sealed containers that are constructed of suitable materials to prevent leakage and corrosion and labeled in accordance with applicable Resources Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, tribal, or local requirements;

iii. Store all outside containers within appropriately-sized secondary containment (e.g., spill berms, dikes, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in a covered area, having a spill kit available onsite);

iv. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal state, tribal and local requirements;

v. Clean up spill immediately, using dry clean-up methods where possible, and dispose of used materials properly. You are prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge; and

vi. Follow all other federal, state, tribal, and local requirements regarding hazardous or toxic waste.

vii. All spills of hazardous material, deleterious material or petroleum products which

[42] Examples of hazardous or toxic waste that may be present at construction sites include paints, caulks, sealants, fluorescent light ballasts, solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids.

may impact waters (ground and surface) of the State of Idaho shall be immediately reported. Call 911 if immediate assistance is required to control, contain or clean up the spill. If no assistance is needed in cleaning up the spill, contact the appropriate DEQ regional office in the table below during normal working hours or Idaho State Communications Center after normal working hours. If the spilled volume is above federal reportable quantities, contact the National Response Center.

a. For Immediate Assistance: Call 911

b. National Response Center: (800) 424-8802

c. Idaho State Communications Center: (208) 632-8000

Table 4 Regional Office Contact Numbers

Regional Office	Toll Free Number	Phone Number
Boise	888-800-3480	208-373-0550
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	877-541-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

E. For construction and domestic wastes:[43]

i. Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes;

ii. For waste containers that have lids, keep waste container lids closed when not in use, and close lids at the end of the business day and during storm events. For waste containers that do not have lids, provide either cover (plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to storm water or a similarly effective means designed to minimize the discharge of pollutants from these areas.

iii. On business days, clean up and dispose of waste in designated waste containers and

iv. Clean up immediately if containers overflow.

[43] Examples of construction and domestic wastes include packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, demolition debris, and other trash or building materials.

F. For sanitary waste, position portable toilets so that they are secure and will not be tipped or knocked over (e.g., secure with stakes that tie to the portable toilets and go into the ground), and so that they are located away from waters of the U.S. and storm drain inlets or conveyances.

DEQ notes that the proposed 2022 CGP requirements do not replace the SPCC requirements if the construction site exceeds the thresholds established by the 40 CFR 112 regulations.

A minor change is proposed to the pollution prevention measure requirements in Section 2.3.3.E for construction and domestic wastes. DEQ learned from EPA's outreach that permittees have been confused about what the precise requirement is for closing the lids of waste containers. To clarify the intent, DEQ proposes to specify that where the waste container has a lid, it must be kept closed at the end of the business day and during storm events.

Section 2.3.4 implements the requirements of 40 CFR 450.21(e)(1) and (e)(2). The requirements apply to the washing of applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials.

4. For washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials:

A. Direct wash water into a leak-proof container or leak-proof and lined pit designed so that no overflows can occur due to inadequate sizing or precipitation;

B. Handle washout or cleanout wastes as follows;

i. Do not dump liquid wastes in storm sewers or waters of the U.S.;

ii. Dispose of liquid wastes in accordance with applicable requirements in Section 2.3.3; and

iii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Section 2.3.3; and

C. Locate any washout or cleanout activities as far away as possible from waters of the U.S. and storm water inlets or conveyances, and, to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.

Section 2.3.5 includes the discharge restrictions to prevent the discharge of nutrients in storm water and to further implement the C&D rule requirement to "minimize the discharge of pollutants" at 40 CFR 450.21(d).

5. For the application of fertilizers:

A. Apply at a rate and in amounts consistent with manufacturer's specifications, or document in the SWPPP departures from the manufacturer's specifications where appropriate in accordance with Section 7.2.6.B.ix;

B. Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;

C. Avoid applying before heavy rains that could cause excess nutrients to be discharges;

D. Never apply to frozen ground;

E. Never apply to storm water conveyance channels; and

F. Follow all other federal, state, tribal, and local requirements regarding fertilizer application.

DEQ includes these requirements to follow regarding fertilizer application, which are meant to minimize any potential discharge of excess or improperly applied fertilizers.

Section 2.3.6 prohibits the discharge of toxic or hazardous substances from a spill or other release and requires operators to comply with federal reporting requirements of 40 CFR 110, 117, and 302 in the even that a leak, spill, or other release contains a toxic or hazardous substance in an amount equal to or in excess of a reportable quantity.

6. Emergency Spill Notification Requirements

Discharges of toxic or hazardous substances from a spill or other release are prohibited, consistent with Section 1.3.5. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302 occurs during a 24-hour period, you must notify the National Response Center (NRC) at (800) 424-8802 and the Idaho State Comm Center at (208) 632-8000 as soon as you have knowledge of the release. You must also, within seven calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release to DEQ through the IPDES E-Permitting System. State, tribal, or local requirements may necessitate additional reporting of spills or discharges to local emergency response, public health, or drinking water supply agencies.

2.4 Construction Dewatering Requirements

Section 2.4 implements the C&D rule requirements that prohibits "discharges from dewatering activities, including discharges from dewatering of trenches and excavations" unless managed by "appropriate controls."

Comply with the following requirements to minimize the discharge of pollutants in ground water or accumulated storm water that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation, in accordance with Section 1.2.2.

1. Route dewatering water through a sediment control (e.g., sediment trap or basin, pumped water filter bag) designed to minimize discharges with visual turbidity; 44

2. Do not discharge visible floating solids or foam;

[44] For the purposes of this permit, visual turbidity refers to a sediment plume or other cloudiness in the water caused by sediment that can be identified by an observer.

3. Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to or expected to contain these materials. The discharge must not cause the formation of a visible sheen or visible hydrocarbon deposits on the bottom or shoreline of the receiving water;
4. To the extent feasible, use well vegetated, upland areas of the site to infiltrate dewatering water before discharge. You are prohibited from using waters of the U.S. as part of the treatment area;
5. To minimize sediment discharges from causing erosion:
   A. Use stable, erosion resistant surfaces (e.g., well-vegetated grassy areas, clean filter stone, geotextiles underlayment) for the discharge from dewatering controls;
   B. Do not place dewatering controls, such as pumped water filter bags, on steep slopes (as defined in Appendix A); and
   C. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Section 2.2.11. The discharge must not cause re-suspension of sediments upon discharge to the receiving water.
6. For backwash water, either haul it away for disposal or return it to the beginning of the treatment process;
7. Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications; and
8. Comply with dewatering-specific monitoring requirements in Section 3.3 and the specific inspection requirements in Section 4.

The specific restrictions in Section 2.4 provide the permit's interpretations of what is meant by "appropriate controls" in the C&D rule. These specific requirements, in part, also implement the C&D rule requirements to control peak flowrates and total storm water volume (40 CFR 450.21(a)(2)), to minimize sediment discharges (40 CFR 450.21(a)(5)), and to direct storm water vegetated areas (40 CFR 450.21(a)(6)). DEQ is proposing updates to the technology based requirements for construction dewatering activities to further clarify the meaning of "appropriate controls" under this general permit. Additional specificity is provided in terms of the types of pollutants that must be controlled in the discharge, and additional detail is provided on how erosion is to be minimized at the point of discharge. These changes are proposed to address EPA's finding of lack of compliance at sites with controls that are inadequate or improperly installed and maintained, resulting in significant discharges of sediment and other pollutants to receiving waters.

Dewatering Discharges Background

Dewatering, as regulated in Section 2.4 of the permit and defined in Appendix A, is the act of draining accumulated storm water and/or ground water from excavations, foundations, vaults, trenches, and other similar points of accumulation. Short term construction dewatering activities are typically conducted to remove water from construction sites. The presence of water in areas of construction activities is typically the result of either ground water or surface water intrusion, or storm water from a precipitation event accumulating in the area and possibly commingling

with ground water or surface water. Removal of this water from the construction site is often necessary for construction activities to commence or continue, including for equipment operation and maintaining the integrity of the structure being constructed.

Construction dewatering activities can include:

- In stream dewatering: cofferdams, drill hole, or pylon development.
- Surface area dewatering: water pumped from disturbed surface areas (e.g. trenches, sumps, excavation pits, or other excavations associated with construction where sediment laden ground water or surface water/storm inflow must be removed).
- Ground water dewatering: water discharged from well development, well pump tests, or pumping of ground water from a construction area. Common methods of ground water dewatering from a construction area include sumps and wells, generally described as follows:
    - Sumps; lowers ground water levels near the construction area. Dewatering using sumps consists of pumping ground water out of a lower collection point(s) typically gravity fed by local ground water
    - Wells: drilled wells, including bored/augured, driven, or jetted, which use vacuum or pumping to lower the ground water at greater depths than the sumps. The two most common types of wells used for dewatering groundwater are:
        - Wellpoints: small diameter shallow wells which are connected via a header pip. A pump creates a vacuum in the header pipe.
        - Deep wells: larger diameter holes, drilled relatively deep (typically greater than 10 feet), pumped by submersible electric pumps.

The frequency and duration of construction storm water discharges can be highly variable and difficult to predict due to the erratic timing of storms and several factors, such as the amount, frequency, intensity, and duration of precipitation. By contrast, operators typically control dewatering discharges and determine when they occur, which can be either continuous or episodic, and are more similar to industrial wastewater discharges. Given the high rate at which dewatered water may be discharged, if not properly controlled, discharges of sediment from dewatering activities can be elevated and exceed the permissible levels of sediment in storm water discharges from the site. As discussed further below, the dewatered water can contain and transport pollutants at elevated levels, most notably sediment, into nearby waters and the concentrated flow of the pollutant discharge can erode the land over which the discharge flows if improperly controlled.

Untreated water from construction dewatering activities may contain pollutants that, if discharged without being managed by appropriate controls, would likely exceed applicable water quality standards. Dewatering discharges may also contribute to erosion and scour thus leading to higher amounts of sedimentation if discharged without proper controls. The principal pollutant of concern associated with construction dewatering is sediment (e.g. suspended solids and turbidity). These discharges are often exposed to soil, rock, and man-made material that can create the potential for sediment to be present in these discharges. The sediment concentrations

and turbidity in construction dewatering effluent can vary greatly depending upon project specific factors such as soil type, topography, project type, time of year, extent of construction activity, implementation of controls, and location of the activity in relation to receiving waters.

Oil and grease may be present in dewatering discharges from pumping systems used for dewatering or from leaks and spills of fuel or hydraulic fluid from construction equipment. Other pollutants of concern associated with construction dewatering include metals, nutrients (i.e. nitrogen and phosphorus), pH, and total dissolved solids. Although these pollutants may occur naturally in ground water, they may be present at concentrations that exceed the applicable water quality standards. Dewatered ground water from a contaminated site may contain additional pollutants. DEQ notes that it is proposing in Section 1.3.6 to prohibit discharges of dewatered groundwater from contaminated sites.

In some cases, dewatering discharges can be avoided or minimized by allowing the water to evaporate/infiltrate or by retaining the water and enabling solids to settle out on site for later construction use (e.g. dust control). Where the discharge cannot be avoided, a variety of controls can be used to remove sediment prior to discharge. Common controls to reduce sediment from dewatering discharges include sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, filtration systems (e.g. bag or sand filters), passive treatment systems designed to remove sediment , and chemical treatment (coagulation, flocculation) in accordance with Section 2.2.13. Factors that operators may consider when selecting the appropriate controls include, but are not limited to, pumping rate, depth and area of dewatering, depth to the ground water table, soil hydraulic conductivity, and soil particle sizes.

Operators may also need to employ additional controls downstream of dewatering controls to minimize erosion. Such controls may include vegetated buffers, check dams, riprap, and grouted riprap at outlets.

EPA has informed DEQ of the lack of compliance among construction sites with the EPA 2017 CGP's dewatering discharge requirements. Direct observations during EPA led inspections as well as complaints received from the public indicate that noncompliance with the Section 2.4 permit requirements is prevalent. This anecdotal information suggests that the dewatering requirements need to be revisited.

DEQ is clarifying the existing requirements to make sure they are clear to the permittee and specific enough to expect improved compliance. In light of the problems identified by EPA, DEQ is proposing improvements to the dewatering requirements in the permit that consider the unique ability of the operator to control the rate of discharge and when dewatering starts and stops to inspect the dewatering operation to identify problems and take immediate action to correct them.

DEQ is proposing to clarify the requirement for treating dewatering water to prevent discharges with visual turbidity and prevent the formation of visible oil sheens or deposits. DEQ proposes to define "visual turbidity" within the context of dewatering controls as "a sediment plume or other cloudiness in the water caused by sediment that can be identified by an observer."

The 2022 CGP updates the requirement to comply with velocity dissipating measures at the point of the dewatering discharge to provide clarification of the intended goals (i.e. prevent erosion from sediment discharge and prohibit resuspension of sediments in the receiving water) and

additional specificity regarding means and methods. The proposed requirements would require the use of stable, erosion resistant surfaces at the discharge point and prohibit the placement of dewatering controls on steep slopes.

In developing the proposed changes to Section 2.4, DEQ looked to examples of dewatering requirements referenced in EPA's 2022 CGP. DEQ is adopting many of the proposed modified or new provisions from other state issued CGPs or standalone IPDES dewatering discharge permits. For instance, the proposed permit requires that "the discharge must not cause the formation of visible sheen or visible hydrocarbon deposits on the bottom or shoreline of the receiving water." A number of permits include substantially similar language to DEQ's proposed provision, including those issued by Alaska, Montana, Arizona, Nevada, Wyoming, New Jersey, and South Dakota.

State and federal permitting materials served as a resource for the proposed modifications to the dewatering requirements for erosion. The proposed additional specificity in Section 2.4.5 focuses on using stable, erosion resistant surfaces and avoiding steep slopes similar to guidelines contained in the Idaho Department of Environmental Quality's Idaho Catalog of Storm Water Best Management Practices (April 2020). Other manuals include similar recommendations, for instance Pennsylvania Department of Environmental Protection's *Erosion and Sediment Pollution Control Program Manual* (recommending placement of dewatering controls stabilized locations of the site to prevent erosion from the flow through water). Additionally, the proposal to further clarify the requirements relating to minimizing the erosive effects of the dewatering discharge (i.e. "the discharge must not cause re-suspension of sediments upon discharge to receiving water.") is similar to requirements in other state permits, such as the 2019 Alaska General Permit for Excavation Dewatering Permit and the 2018 South Dakota CGP.

3. Water Quality-Based Effluent Limitations

The CGP includes water quality based effluent limits to control discharges as necessary to meet applicable water quality standards in Section 3. The WQBELs in Section 3 supplement the TBELs in Section 2.

3.1 General Effluent Limits to Meet Applicable Water Quality Standards

Section 3.1 requires that all operators control their storm water discharges as necessary to meet applicable water quality standards.

> If at any time an Operator becomes aware (e.g., through self-monitoring or by notification from the state), or DEQ determines, that the Operator's discharge causes or contributes to an excursion of any applicable water quality standard, the Operator must take corrective action as required in Section 5 up to and including the ceasing of the discharge, if necessary.
>
> In the absence of information demonstrating otherwise, DEQ expects that compliance with the conditions in this permit will result in storm water discharges being controlled as necessary to meet applicable WQS.
>
> If you were required to install and maintain storm water controls specifically to meet the assumptions and requirements of an EPA approved or established TMDL (for any parameter) or to otherwise control your discharge to meet WQS during your coverage under a previous permit, , you must continue to implement such controls as part of your coverage under this

permit.

DEQ expects that compliance with the conditions and effluent limits in the permit will result in discharges that meet applicable water quality standards. To support this expectation, the permit includes additional water quality based effluent limits (WQBELs). DEQ expects that these WQBELs, in combination with the technology based effluent limits (TBELs) in Section 2 and the rest of the requirements in the permit, to be as stringent as necessary to control discharges so that they achieve water quality standards.

3.2 Water Quality Based Conditions for All Sites

Section 3.2 inform operators that the requirements in Section 4.3 and 2.2.14.A.iii apply if the operator discharges to a water impaired for sediment or a sediment related parameter, and/or nutrients, or to a water that is identified by Idaho as Tier II or Tier III for antidegradation purposes.

For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by Idaho as Tier II or Tier III for antidegradation purposes you must comply with the stabilization deadline specified in Section 2.2.14.B.iii.

If you discharge to a water that is impaired for a parameter other than a sediment related parameter or nutrients, DEQ will inform you if any additional controls are necessary for your discharge to be controlled as necessary to meet WQS, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is necessary.

In addition, on a case by case basis, DEQ may notify operators of new sites or operators of existing sites with increased discharges that additional analyses, storm water controls, and/or other measures are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary.

If you discharge to a water that is impaired for polychlorinated biphenyls (PCBs) and are engaging in demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, you must:

A. Implement controls[45] to minimize the exposure of PCB containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to storm water; and

B. Ensure that disposal of such materials is performed in compliance with applicable state, federal, and local laws.

The permit explains what is meant by discharges to "impaired waters" or discharges to Tier II or III waters as follows:

[45] Examples of controls to minimize exposure of PCBs to precipitation and storm water include separating work areas from non-work areas and selecting appropriate personal protective equipment and tools, construction a containment area so that all dust or debris generated by the work remains within the protected area, and using tools that minimize dust and heat (<212°F). For additional information refer to Section IV.2.3.3 of the CGP Fact Sheet.

> "Impaired waters" are those waters identified by the state, tribe, or EPA as not meeting an applicable water quality standards and (1) requires development of a TMDL (pursuant to section 303(d) of the CWA); or (2) is addressed by an EPA-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR 130.7(b)(1). Your construction site will be considered to discharge to an impaired water if the first water of the U.S. to which you discharge is an impaired water for the pollutants contained in the discharge from your site. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the storm water discharge from the storm sewer system. For assistance in determining whether your site discharges to impaired waters, EPA has developed a tool that is available at https://water.epa.gov/polwaste/npdes/storm water/discharge.cfm.
>
> Tiers II and III refer to waters either identified by the state as high quality waters or Outstanding National Resource Waters under); IDAPA 58.01.02.051. For the purposes of this permit, you are considered to discharge to a tier II or III water if the first water of the U.S. to which you discharge is identified by Idaho as Tier II or III. For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first water of the U.S. that receives the storm water discharge from the storm sewer system.
>
> DEQ may determine on a case by case basis that a site discharges to a sensitive water.

DEQ is maintaining EPA's approach with shorter deadlines for site stabilization for projects that discharge to impaired or Tier II or III waters.

Increased monitoring frequency will enhance operator's ability to find and correct problems before a discharge of pollutants to the impaired water occurs.

For receiving waters already impaired for pollutants associated with construction activity, further reducing the amount of time that exposed soil is left in an unstabilized state is important for limiting the sediment and/or nutrient load to these waters. The faster stabilization requirement for areas discharging to sediment and nutrient impaired waters is designed to minimize the erosion and sedimentation that is associated with large exposed areas.

DEQ expects that the additional requirements for Tier II and III waters to stabilize exposed areas faster and conduct more site inspections will lead to these discharges not resulting in a lowering of water quality. Thus, DEQ has determined that compliance with the CGP will satisfy the Tier II (and III) antidegradation requirements because the controls will not result in a lowering of water quality, making individualized Tier II (or III) review unnecessary. The controls in the permit are sufficiently stringent that they would generally satisfy the requirement at the heart of Tier II review, that the discharge is necessary to accommodate important economic or social development in the area where the discharge is located. Construction is usually important to economic and social development, and the controls already required in Section 2 of the permit have been identified by EPA in its effluent limitations guideline for the construction and development category as the level of pollutant abatement that is the best available technology economically achievable. However, in cases where information submitted with the NOI, or available from other sources, indicates that further Tier II (or III) review and/or conditions are

necessary either for a new project or an existing project with a significantly increased discharge, DEQ will conduct this review and require any appropriate additional controls.

The conclusion that compliance with the CGP will generally meet the Tier II (and III) antidegradation requirements depends on several aspects of the permit. First, all construction sites that will be subject to this permit must meet the stringent general effluent limits set in Section 2. Through compliance with these limits, DEQ expects that the discharge of pollutants will be reduced and/or eliminated so that there should not be a lowering of water quality. DEQ bases this conclusion in part on the fact that the limits in this permit are based on the nationally developed effluent limitations guidelines process that defined the BAT/BCT/BPT and NSPS level of control. DEQ is also imposing on these sites the requirement to meet even more stringent controls defined in Section 4.1.3 (more frequent inspections) and 2.2.1.14 (stricter stabilization deadlines). Furthermore, once installed and implemented, the operator is obligated to maintain these controls and to correct deficiencies where inspection determines that deficiencies exist. Where DEQ determines through its oversight activities (e.g. onsite inspection) that a discharger is not meeting its limits, such a deficiency will constitute a violation of the permit and will require follow-up corrective action pursuant to Section 5.

Second, there may be individual cases where DEQ determines that further controls are necessary or that coverage under the CGP is no longer appropriate to protect the Tier II (or III) status of the receiving water. For this reason, DEQ has included the language in Section 3 allowing DEQ to notify operators of new projects or existing projects with significantly increased discharges that additional analyses, storm water controls, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify the permittee that an individual permit application is necessary.

Section 3.2 also clarifies that operators will be informed if any additional controls are necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in a TMDL. These provisions are intended to implement the requirement in IDAPA 58.01.25.302.06.a.vii.(2), which requires that water quality based effluent limits in permits be "consistent with the assumptions and requirements of any available wasteload allocation for the discharge" and of IDAPA 58.01.25.120 which contains requirements regarding the issuance of permits for new sources.

Section 3.2 maintains the EPA 2017 CGP requirement for operators discharging to waters impaired for polychlorinated biphenyls (PCBs) to precipitation and storm water during demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980. Buildings and structures originating or remodeled between 1950 – 1979 often contain PCBs in materials such as caulk and paint. Without proper controls, the demolition of such structures can cause PCBs to be released into the environment and discharged into waters of the U.S. during storm events. To address this concern, Section 3.2 requires controls to be implemented to minimize exposure of building materials containing PCBs to precipitation and storm water, and to ensure that such materials are disposed in compliance with applicable state, federal, and local laws. The requirement is limited to the demolition of buildings or structures with at least 10,000 square feet of floor space built or renovated before January 1, 1980 on sites that discharge to PCB impaired waters. This requirement helps to ensure that authorized discharges will meet WQS.

The presence of PCBs in certain building components, especially in caulk and fluorescent light bulbs, has been a focus of EPA's research over the past several years. The following is a summary of the findings from EPA studies establishing the presence of PCBs in building materials, particularly in school buildings:

- Caulk put in place between 1950 and 1979 may contain as much as 40 percent PCBs and can emit PCBs into the surrounding air. PCBs from caulk may also contaminate adjacent materials such as masonry or wood.
- Fluorescent lighting fixtures that still contain their original PCB containing light ballasts have exceeded their designed lifespan, and the chance for rupture and emitting PCBs is significant. Sudden rupture of PCB containing light ballasts may result in exposure to the occupants and may also result in the addition of significant clean-up costs.
- Some building materials (e.g. paint and masonry walls) and indoor dust can absorb PCB emissions and become potential secondary sources for PCBs. When the primary PCG emitting sources are removed, the secondary sources often emit PCBs.

See EPA's webpage, *Polychlorinated Biphenyls (PCBs) in Building Materials*, located at https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials, for more information.

DEQ purposefully limits this requirement to apply to sites that discharge to waters with known impairments for PCBs consistent with EPAs approach.

EPA added a new question in the EPA 2017 CGP NOI form asking about the prevalence of demolition of a structure with at least 10,000 square feet of floor space that was built or renovated before January 1, 1980. Based on EPA's analysis of NOIs submitted following the EPA 2017 CGP issuance, approximately 10% of NOIs that would involve demolition of these structures. DEQ does not see the need to modify the requirements from the EPA 2017 CGP.

There are a variety of controls that can be implemented to minimize the potential discharge of PCBs from demolition activities, and can also be effective in controlling the release of other hazardous substances like asbestos and lead paint. The following examples provide guidance for operators in selecting site-specific controls to meet the requirement in Section 3.2.

These examples are not required or exhaustive. Operators have flexibility in selecting the specific controls they will implement to meet the requirements in Section 3.2, but must ensure that such controls minimize the exposure of building materials to precipitation and storm water, and ensure that such materials are properly disposed. Operators must also document the selected controls in the SWPPP.

- Separate work areas from non-work areas and select appropriate personal protective equipment and tools.
- Construct a containment area so that all dust or debris generated by the work remains within the protected area.
    - Apply plastic sheeting to the floor, ground, or other applicable surfaces to prevent contamination of the building interior or exterior from dust generated by the work.

    - Put all necessary tools and supplies on the protective sheeting in the work area before you begin work to avoid stepping off the protective sheeting before the work is complete.
    - Construct a decontamination area outside of the work area by placing heavy plastic sheeting on the ground. Use this area for removing personal protective equipment and for cleaning equipment used in the enclosure.
        - Every time you leave the plastic sheeting, remove disposable shoe covers, and wipe or vacuum shoes, especially the soles, before stepping off the plastic sheeting. A large disposable tack pad on the floor can help to clean the soles of shoes.
        - Remove or vacuum off Tyvek suits when exiting the work area so the dust stays inside the work area.
- For locations where a containment area cannot be constructed, consider the following techniques:
    - Cover the ground and plants with heavy plastic sheeting to catch debris. The covering should extend at least ten feet out from the building. Secure the covering to the exterior wall with a wood strip and staples, or tape.
    - Seal off any vents or air exchange systems into the building that are located within the work area.
    - Move or cover any play areas within 20 feet of the work area.
    - To prevent debris from falling beyond the ten foot covering when working on the second story or above, extend the sheeting farther out from the base of the building and to each side of the area where materials are being disturbed.
    - To prevent the spread of debris when work is close to a sidewalk, street, or property boundary, or the building is more than three stories high, scaffolding should be covered in plastic.
    - Avoid working in high winds. Otherwise, take special precautions to keep the work area contained when the wind is strong enough to move dust and debris. For example, a wind screen can be constructed of plastic at the edge of the ground cover plastic to keep dust and debris from migrating.
- For inside work, consider placing the containment area under negative air pressure and/or using high-efficiency particulate air (HEPA).
- Use tools that minimize dust and heat (<212°F). Detailed information on tools can be found at https://www3.epa.gov/epawaste/hazard/tsd/pcbs/pubs/caulk/guide/guide-appendix.htm.
    - When using electromechanical tools, use HEPA vacuum attachments to contain the dust generated.
    - Use wet sanders and misters to keep down the dust created during sanding, drilling, and cutting.
- Leave the work area clean at the end of every day and at the end of the project.
    - Daily activities include:
        - Pick up as you go. Put trash in heavy duty plastic bags.
        - Vacuum the work area with a HEPA vacuum cleaner frequently during the day and at the end of the day.
        - Clean tools at the end of the day.
        - Dispose of or clean off personal protective equipment.

        - Properly dispose of wastewater produced during the job.
    - End of project activities include:
        - Make sure all trash and debris, including building components, are disposed of properly.
        - Vacuum any exposed surfaces, including walls and ceilings, with a HEPA vacuum cleaner.
        - Mist dusty sections of the plastic sheeting with water before taking them down to keep dust from becoming airborne again.
        - Remove plastic sheeting carefully, fold it with the dirty side in, tape it shut, and properly dispose of it.
        - Visually inspect the site to ensure that no dust or debris is present and re-clean the area thoroughly if you find dust or debris.

The following are also recommended practices for minimizing PCB exposure to workers, building occupants, and community members during demolition activities.

- Use site security measures to prevent access of unauthorized persons to the work areas until after the final cleanup. Examples of security measures include:
    - Lock fence gates or doors to the work areas during off hours.
    - Place signs, barrier tape, and/or cones to keep all non-workers out of the work area. Signs should be in the primary languages of the occupants, and should say "do not enter – authorized personnel only" and "no eating, drinking, or smoking".
        - Establish a system to identify authorized persons and any limitations to their approved activities.
        - Provide a means for approving all visitors to the work area; ensure trained site personnel accompany visitors at all times and provide them with appropriate personal protective equipment.
- Close windows and doors within 20 feet of the work area to keep dust and debris from getting into the building.
- Change out of work clothing before going home, and launder non-disposable protective clothing separately from family laundry.

3.3 Water Quality Based Conditions for Sites Discharging to Sensitive Waters from Construction Dewatering Activities

Section 3.3 requires permittees to collect and analyze at least one representative turbidity sample from the discharge on each day dewatering discharges occur. Turbidity monitoring provides operators with a baseline and comparable understanding of dewatering discharge quality, potential water quality problems, and dewatering control measure effectiveness. These data would supplement information provided through the daily inspections during dewatering activities required in Section 4.3.2.

> You must take at least one turbidity sample from the dewatering discharge after any treatment process on each day of discharge from dewatering activities. The following two criteria must be met;
>
> - The daily sample must be under 50 NTU.

- The running 10 calendar day average of the daily results must be under 25 NTU.

If either of these criteria is not met, you must stop the dewatering then implement corrective actions to address the cause of the exceedance before resuming dewatering operations.

The turbidity measurements must be taken in the field using a turbidimeter. The turbidimeter must be calibrated properly and regularly.

An example monitoring report is available in Appendix J. Records of monitoring information must include:

a. All calibration and maintenance records;
b. All original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department;
c. Copies of all reports required by the permit;
d. Records of all data used to complete the Notice of Intent for the permit;
e. The date, exact place, and time of sampling or measurement;
f. The name of any individuals who performed the sampling or measurements;
g. The dates any analyses were performed;
h. The name of any individuals who performed the analyses;
i. The analytical techniques or methods used;
j. The results of the analysis

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The monitoring log must describe all exceedances and subsequent actions taken, including the effectiveness of the action. Include the date the plume was identified, the calibration records of the turbidimeter, the dates on which pollutant generating activity ceased, and the dates on which pollutant generating activities resumed, as applicable. Keep the monitoring log in your SWPPP.

This monitoring requirement is limited to discharges from construction dewatering activities.

Sediment is a major cause of impairment of Idaho's waters. Excessive sediment can impair waterbody uses such as aquatic life, navigation, recreation, and sources of drinking water. The monitoring requirements for dewatering discharges helps ensure that such discharges do not further contribute excess pollutants to waters that are impaired for sediment and that existing uses are maintained and protected.

The specific parameter that serves as the target of the dewatering monitoring is turbidity. Turbidity is the measure of the scattering and absorption of light when it enters a water sample. The quantity of suspended particles in water helps to determine turbidity levels as do particle size, shape, and color distributions. Suspended particles can include clay, silt, colloids, finely divided organic and inorganic matter, soluble colored organic compounds, plankton, and other microscopic organisms. Turbidity levels are typically expressed in nepholometric units (NTUs). Higher NTU levels indicate more turbid water.

DEQ is focusing on turbidity monitoring from treated dewatering discharges for a number of reasons. First, the simplicity of measuring turbidity offers advantages over other sediment parameters such as total suspended solids and suspended sediment concentration. As EPA

explained in its *Development Document for Final Effluent Guidelines and Standards for the Construction and Development Category* (November 2009), "Turbidity is a simple measurement that requires only the use of a turbidimeter and can be conducted in the field. Readings are made in nephelometric turbidity units or NTUs. Turbidity measurement does not require any sample preparation, other than shaking the sample bottle well before analysis. The samples is simply poured into a glass tube and placed inside the calibrated instrument. The result is read directly from the instrument. There are also a variety of digital turbidity probes, which can be coupled with a microprocessor controlled data logger and combination meter/data loggers available that can be used to automatically read and log turbidity in-situ." Unlike other sediment parameters that require samples to be analyzed at a laboratory, turbidity can be measured and the results generated instantaneously. This offers advantages to the management of a dewatering discharge where elevated turbidity levels are found because the results are available in real time, and the operator will be able to take immediate action if necessary to temporarily shut off the discharge.

Second, turbidity levels in the aquatic environment, as wells as sediment in general, have well studied impacts on water quality and organisms. A variety of organisms, including aquatic plants, invertebrates, amphibians, and fish, are affected by elevated sediment and turbidity levels. High levels of sediment and turbidity affect aquatic ecosystems by reducing photosynthetic activity, reducing food availability, burying habitat, and directly harming organisms. Organisms may relocate, sicken, or die. Organism loss can alter the composition of the aquatic community. For further discussion of the effects of sediment and turbidity on aquatic species and habitat, see generally Section 2.3 of the *Environmental Impact and Benefits Assessment* cited above. Additionally, according to EPA's Assessment TMDL Tracking and Implementation System (ATTAINS), sediment and turbidity comprise a significant percentage of impaired waters in the U.S.

Third, turbidity can be an effective indicator of the effectiveness of treatment controls at construction sites. Turbidity is an indirect measurement of the amount of sediment present in water, therefore reductions in turbidity in the discharge translate into reductions in sediment in the discharge. Dewatering controls can be highly effective in removing soil particles and other contributors to sediment from dewatering activities. If high turbidity levels are present in samples taken of dewatering discharges following treatment by sediment controls, this would be an indicator that the dewatering controls are not effectively controlling sediment in those discharges. Turbidity in discharges could also be an indicator of total organic nitrogen, phosphorus, zinc, iron, and manganese.

Fourth, five other states already have dewatering permits that include requirements for measuring turbidity (and some have turbidity limits). The monitoring requirements in Alaska, Hawaii, Montana, Nevada, and New Jersey vary. For instance, Montana establishes different monitoring requirements and turbidity based on the type of receiving water, while Alaska determines effluent limits based on whether the water is freshwater or marine, and whether a mixing zone is granted.

The CGP requires that operators discharging dewatering water monitor at the time of the daily dewatering discharge inspection required based on Section 4.3.2. Operators may perform turbidity monitoring in the field using a turbidimeter in accordance with EPA approved analytical methods. The ability to obtain turbidity results in the field will allow operators to quickly identify when discharges of excessive sediment are occurring and take appropriate

corrective actions to address the condition in accordance with Section 5.1.5, including suspending the discharge and taking steps to ensure that the controls on-site are operating effectively.

Operators must take turbidity samples on each day of discharge from their dewatering activities. Operators must compare the daily monitoring result with the instantaneous benchmark value of 50 NTU, and the 10 day average of the results with the benchmark value of 25 NTUs. If the discharge exceeds the benchmarks, the operator must conduct corrective action to determine the source of the problem and make necessary repairs or upgrades to the dewatering controls to lower the turbidity levels. The operator is required to document any corrective action taken in its corrective action log in accordance with Section 5.4.

Benchmark monitoring provides a gauge of the performance of dewatering controls and the potential for water quality exceedances. Analytical results from benchmark monitoring are quantitative, and can be used to compare results from discharge to discharge and to quantify any improvements in discharge quality related to the control measures, or to identify a pollutant that is not being adequately controlled.

Section 4 of the CGP requires daily inspection requirements for areas where construction dewatering is taking place, as well as documentation for discharge start and end times, discharge rate, and present of a sediment plume, visible sheen, or visible hydrocarbon deposits. Visual inspections can indicate the presence of issues from pollutants that are not subject to monitoring. Although the proposed daily inspections and benchmark monitoring would occur at the same frequency, visual inspections result in narrative descriptions of the discharge and may not provide the precision necessary for the operator to identify or address a specific pollutant problem.

Compiling and evaluating information from inspections in a systematic, meaningful way can be more challenging than analyzing quantitative benchmark data, even though the information from the qualitative evaluation of the inspections is of no less importance. Inspections give a general, qualitative indication of discharge quality for a given day. Benchmark monitoring data, on the other hand, provide numerical indicators of control measure effectiveness, what pollutants are being discharged and at what magnitude, which can be addressed in real time and compared over time.

DEQ is including a benchmark threshold for turbidity of 50 NTU instantaneously, and 25 NTU on a 10 day average. Idaho's WQS include an instantaneous standard of 50 NTU over background conditions, and a 10 day average of 25 NTU over background . IDAPA 59.01.02.250.02.e. Natural background based criteria are difficult to implement as benchmark thresholds in a general permit given the additional sampling required (effluent as well as upstream receiving water) and the natural variability of turbidity in receiving waters. Implementation of a floating benchmark threshold would effectively constitute a "moving target," making it difficult for operators to design control measures capable of maintaining the turbidity of dewatering discharges below the threshold under all receiving water conditions.

DEQ does not have turbidity data from CGP permittees to compare the quality of treated dewatering effluent with the proposed 50 NTU instantaneous and 25 NTU 10 day average benchmarks. The benchmark thresholds comply with the Idaho WQS. DEQ reiterates that benchmarks are not effluent limits. Rather, they are a numeric measure for assessing whether a

facility's controls are effective. Failure to conduct and report benchmark monitoring would be considered a permit violation. The benchmark thresholds, combined with the narrative effluent limit in Section 3 ("Discharges must be controlled as necessary to meet applicable water quality standards."), and the remainder of the permit's terms and conditions are expected to result in construction dewatering discharges being controlled as necessary to meet applicable water quality standards for turbidity.

3.4 Water Quality Based Conditions for All Sites

Turbidity Monitoring Requirements:

Idaho WQS require that discharges not exceed 50 NTU above the background turbidity at any time, and that they not exceed 25 NTU over background turbidity on average for a 10 day period. The CGP requires that sites monitor for turbidity when there is a direct discharge from an unstabilized portion of the site to the receiving water to determine compliance with the WQS.

Turbidity Monitoring

All permittees must conduct turbidity monitoring during construction activities when there is a direct discharge of pollutants from an unstabilized portion of the site to a water of the U.S. during normal operating hours.

A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field, but grab samples may be collected and taken to a laboratory for analysis. If the permittee can demonstrate that there will be no direct discharge from the construction site, then turbidity monitoring is not required. When monitoring is required, at least one sample must be taken at an undisturbed area immediately upstream of the project area to establish background turbidity levels for the monitoring event. Background turbidity, location, date and time must be recorded prior to monitoring downstream of the project area. At least one sample per day must also be taken immediately downstream from each point of discharge and within any visible plume. The turbidity, location, date and time must be recorded in a log. The downstream samples must be taken immediately following the upstream samples in order to obtain meaningful and representative results. Sampling from less than every discharge location is allowed if the discharge locations sampled are representative of the site's total discharges.

Results from the discharge location sampling must be compared to the background levels to determine whether project activities are causing an exceedance of Idaho WQS. If the downstream turbidity is 50 NTUs or more above the background turbidity, then the discharge is causing an exceedance of WQS. Any turbidity exceedance must be reported to the appropriate DEQ regional office within 24 hours through the 24-hour IPDES hotline at 1-833-IPDES24 (1-833-473-3724). The following steps should be followed to ensure compliance with the turbidity standard:

1. Quantify the discharge by collecting turbidity measurements from the discharge point and the upstream monitoring point, and compare to Idaho's instantaneous numeric turbidity criterion (50 NTU over background).
2. If the discharge turbidity is less than 50 NTU instantaneously over the background turbidity; continue monitoring at least once per day until the discharge ceases. If turbidity exceeds

background turbidity by more than 50 NTU instantaneously, then stop pollutant generating activities, conduct corrective action and proceed to step 3.

3. Take immediate action to address the cause of the exceedance.[46] That may include inspecting the condition of project BMPs. If the BMPs are functioning as intended but the turbidity is above the WQS, then the permittee must conduct corrective action to modify or improve the BMPs to correct the exceedance.
4. Notify the appropriate DEQ regional office within 24 hours through the 24-hour IPDES hotline at 1-833-IPDES24 (1-833-473-3724).
5. Continue monitoring each day until either 1) the discharge ceases or 2) the discharge meets WQS (no more than 50 NTU over background or 25 NTU for more than 10 consecutive days over background).
6. Pollutant generating activities can resume at the site when one of the two conditions in Step 5 is met.

An example monitoring report is available in Appendix J. Records of monitoring information must include:

a. All calibration and maintenance records;
b. All original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department;
c. Copies of all reports required by the permit;
d. Records of all data used to complete the Notice of Intent for the permit;
e. The date, exact place, and time of sampling or measurement;
f. The name of any individuals who performed the sampling or measurements;
g. The dates any analyses were performed;
h. The name of any individuals who performed the analyses;
i. The analytical techniques or methods used; and
j. The results of the analysis

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The monitoring log must describe all exceedances and subsequent actions taken, including the effectiveness of the action. Include the date the plume was identified, the calibration records of the turbidimeter, the dates on which pollutant generating activity ceased, and the dates on which pollutant generating activities resumed, as applicable. Keep the monitoring log in your SWPPP.

All receiving waters in Idaho are assigned an aquatic life beneficial use. The Cold Water Aquatic Life beneficial use requires that receiving waters turbidity not be increased by more than 50 NTU over background based on human impacts. All water bodies in Idaho are assigned or assumed to have the cold water aquatic life beneficial use. In order to determine compliance with

[46] The cause may be uncovered stockpiles, exposed disturbed land, failing or damaged sediment control BMPs, etc.

this requirement, construction projects with a direct discharge to a receiving water with the Cold Water Aquatic Life beneficial use must monitor their discharge for turbidity and conduct corrective action if their discharge exceeds 50 NTU over the background turbidity.

The turbidity monitoring requirement for applies to projects that directly discharge into a water of the U.S. The requirement is limited to direct discharges because discharges that reach a receiving water indirectly cannot reasonably measure the upstream turbidity to determine the background, and thus could not determine if their discharge was 50 NTU above background conditions or not.

pH Monitoring Requirements:

The Idaho WQS require that discharges be within the pH range of 6.5 to 9.0 s.u. IDAPA 58.01.02.250.01.a . The CGP requires that sites monitor for pH when there is a discharge from the site to a water of the U.S.

pH Monitoring

All permittees must conduct pH monitoring when there is a direct discharge from the site to a receiving water from a storm event of 0.25 inches or greater.

pH monitoring must be conducted in the field with a properly calibrated and maintained pH meter.

Permittees must monitor for pH once per day per discharge location. Permittees may monitor from fewer locations if the locations that are monitored are representative of the overall discharge.

If the results of the pH monitoring are not within 6.5 – 9.0 s.u. then the permittee must identify the source of the high or low pH and conduct corrective action to return the pH to within 6.5 – 9.0 s.u. Notify the appropriate DEQ regional office within 24 hours through the 24-hour IPDES hotline at 1-833-IPDES24 (1-833-473-3724).

Continue monitoring each day until either 1) the discharge ceases or 2) the discharge meets WQS (pH within 6.5 – 9.0 s.u.).

An example monitoring report is available in Appendix J. Records of monitoring information shall include:

a. All calibration and maintenance records;
b. All original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department;
c. Copies of all reports required by the permit;
d. Records of all data used to complete the Notice of Intent for the permit;
e. The date, exact place, and time of sampling or measurement;
f. The name of any individuals who performed the sampling or measurements;
g. The dates any analyses were performed;
h. The name of any individuals who performed the analyses;
i. The analytical techniques or methods used; and

j. The results of the analysis

All receiving waters in Idaho are assigned an aquatic life beneficial use. IDAPA 58.01.02.051.02. All aquatic life beneficial uses include criteria for pH of 6.5 – 9.0 s.u. IDAPA 58.01.02.250.01.a. In order to determine whether construction sites have an impact on the pH of receiving waters, pH monitoring of discharges directly to receiving water are necessary. Corrective action is necessary when discharged pH is outside the bounds of the criteria.

4. Site Inspection Requirements

4.1 Persons Responsible for Inspecting Sites

Section 4.1 clarifies that it is the operator who is responsible for ensuring that the person who conducts inspections has the proper training and is qualified. DEQ is further specifying what type of training is required for such personnel to be considered qualified to conduct site inspections. Section 4.1 of the CGP requires that a "qualified person" conduct site inspections. A "qualified person" was defined in the 2017 CGP as "a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact storm water quality, and the appropriate skills and training to assess the effectiveness of any storm water controls selected and installed to assess the effectiveness of this permit." The 2022 CGP reframes the requirements by establishing minimum training requirements for inspectors that would now be included in the training section of the permit, Section 6, rather than relying on the definition of a qualified person. The term qualified person is removed from the permit and is now replaced by the specific training requirements in Section 6.3.

The person inspecting your site may be a person on your staff or a third party you hire to conduct such inspections. You are responsible for ensuring that any person conducting inspections pursuant to this section has received the minimum training required in Section 6.3.

4.2 Water Quality Based Conditions for All Sites

Section 4.2 requires the operator to, at a minimum, conduct a site inspection every 7 days and after rain events of 0.25 inches or greater, unless they are subject to Section 4.3 site inspection frequency for sites discharging dewatering water or Section 4.4 reduction in inspection frequency.

At a minimum, you must conduct a site inspection in accordance with the schedule below, unless you are subject to the Section 4.3 increase in inspection frequency or qualify for a Section 4.4 reduction in the inspection frequency:

1. At least once every seven calendar days, and once each day that there is a discharge directly from your site to a water of the U.S. from a storm event of 0.25 inches or greater of rain[47] or equivalent snowfall amount; or

[47] "Within 24 hours of the occurrence of a storm event" means that you must conduct an inspection with 24 hours once a storm event has produced 0.25 inches within a 24-hour period, even if the storm event is still

A. To determine whether 0.25 inches or greater of rain has occurred at your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Section 4.7.1.D.

B. To determine whether 3.25 inches[48] or greater of snow accumulation has occurred at your site, you must either take measurements of snowfall at your site,[49] or rely on similar information from a local weather forecasting station.

Section 4.2 provides the standard schedule of inspections applicable to most sites. In DEQ's judgement, it is important for inspections to be conducted within a day of the occurrence of a qualifying rainfall event so that the operator can catch any potential problems on the site and correct such problems before a prolonged discharge of pollutants occurs. Requiring inspections to be conducted within 24 hours of the occurrence of a qualifying storm event provides assurance that, during multiple days of discharge from a single storm event, problems with the control of pollutants will be identified sooner and corrected in accordance with the corrective action timeframes in Section 5 of the permit. Note that snowmelt discharge can also trigger the inspection requirement for the biweekly inspection frequency.

To comply with this requirement, operators should ensure that no more than 7 days pass after each inspection before the next inspection is conducted. This could be accomplished by choosing a regular day during the period on which inspections will be conducted in the absence of precipitation events. However, where a rain event produces 0.25 inches or more during the one week period or snowmelt runoff occurs, an inspection must be performed within 24 hours of the occurrence of the event. Following the event related inspection (or final event related inspection in cases of multi-day events), the operator must conduct the next inspection within no more than 7 calendar days.

The permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm. DEQ understands that there has been confusion about when inspections are required in different multiple day storm event circumstances. To help illustrate the intent of the requirement, the permit includes an example in Section 4.2.

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continuing. If you have elected to inspect bi-weekly in accordance with Section 4.2.2 and there is a storm event at your site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, you must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm. For example, if 0.3 inches of rain falls on Day 1, 0.25 inches of rain falls on day 2, and 0.1 inches of rain fall on Day 3, you would be required to conduct a first inspection with 24 hours of the Day 1 rainfall and a second inspection within 24 hours of the Day 2 rainfall, but a third inspection would not be required within 24 hours of the Day 3 rainfall.

[48] This is the amount of snow that is equivalent to 0.25 inches of rain, based on information from the National Oceanic and Atmospheric Administration (NOAA) indicating that 13 inches of snow is, on average, equivalent to 1 inch of rain. See https://www.nssl.noaa.gov/education/svrwx101/winter/faq.

[49] For snowfall measurements, DEQ recommends use of NOAA's National Weather Service guidelines at https://www.weather.gov/jkl/snow_measurement. These guidelines recommend use of a "snowboard" (a piece of wood about 16 inches square) that is placed in an unobstructed part of the site on a hard surface.

The permit adds a numeric threshold for snowfall amount that is equivalent to the 0.25 inch rain event. This change clarifies that where there is a discharge from snowmelt caused by an accumulation of 3.25 inches or greater of snow, an inspection would be required. This change assists operators in understanding when inspections are required during snowmelt events.

DEQ relied on information from the National Oceanic and Atmospheric Administration (NOAA) to derive a numeric equivalent to the 0.25 inch rain event. Information on NOAA's National Severe Storms Laboratory website indicates that the amount of snow that is equivalent to 0.25 inches of rain would be 3.25 inches, based on published data indicating that in general 13 inches of snow is equivalent to 1 inch of rain. See https://www.nssl.noaa.gov/education/svrwx101/winter/faq. For this reason, DEQ proposes to use 3.25 inches as the snowfall equivalent to the 0.25 inch rainfall trigger for inspecting the site using the biweekly inspection frequency in Section 4.2.2. DEQ reminds operators that they would be required to conduct an inspection after a 3.25 inch snow accumulation only once there is sufficient snowmelt to cause a discharge.

DEQ also includes revisions to Section 4.2.2 language specifying how operators should determine when 3.25 inches of snow has accumulated on their site. The proposal would specify that the operator may either take an actual measurement of the snowfall at the site, or rely on similar information from a local weather forecasting provider. DEQ also suggest that operators use the NOAA National Weather Service's guidelines for measuring snowfall at the site. See https://www.weather.gov/jkl/snow_measurement.

4.3 Increase in Inspection Frequency for Certain Sites

Section 4.2 requires the operator to, at a minimum, conduct a site inspection every 7 days, unless they are subject to Section 4.3 site inspection frequency for discharges to sensitive waters or Section 4.4 reduction in inspection frequency.

The increased inspection frequencies established in this section take the place of section 4.2 inspection frequencies for the portion of the site affected.

1. For sites discharging dewatering water, you must conduct an inspection once per day on which the discharge occurs. The Section 4.2 inspection frequency still applies to all other portions of the site, unless the site is affected by either the increased frequency in Section 4.3.1 or the reduced frequency in Section 4.4.

As noted in the fact sheet section IV.3.2, it is DEQ's judgment that these inspection requirements will enhance the operator's ability to find and correct problems before a discharge of pollutants occurs. DEQ expects that compliance with the water quality based effluent limits in the permit, in combination with the general effluent limits in Section 2 and the remainder of the terms and conditions of the permit, will result in discharges that meet applicable water quality standards. DEQ clarifies that the more frequent site inspections are required only for those portions of the site that are discharging to the sensitive water. For example, for a highway construction project spanning many miles over multiple watersheds, the increase in inspection frequency would only be required in areas of the site that discharge to or within one mile upstream of the sensitive water. DEQ also notes that if the operator qualifies for any of the reduced inspection frequencies specified in Section 4.4, they may comply with those reduced frequencies despite the fact that they discharge to a sensitive water. This is because the reduced frequencies in Section 4.4 apply

only to situations where the reduced inspection frequency is justifies by circumstances that ensure protection of all waters, including sensitive waters.

Note that, similar to the requirements for conducting weekly site inspections under Section 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm. The operator must conduct an inspection upon the occurrence of runoff from snowmelt sufficient to cause a discharge.

Related to strengthening controls for dewatering discharges discussed in the request for comment in Section 3.3, DEQ also is increasing the inspection frequency for sites while they are dewatering. DEQ understands that EPA found from its inspections of permitted sites that neither the default inspection frequency nor the increased inspection frequency for discharges to sensitive waters is likely frequent or targeted enough to catch and respond to problems associated with dewatering that are occurring at a particular time. Dewatering activities causing significant pollutant discharges may occur on a non-inspection day. Due to the high rate of flow from dewatering activities and the potential for significant pollutant discharge if the controls are not working effectively or designed properly, increased inspections give operators the opportunity to discover problems closer to the time they are occurring and to respond in an expeditious manner. Requiring increased oversight over the dewatering discharge and pollutant controls will be especially effective given the operator's significant control over the discharge, including the ability to immediately shut off the discharge if necessary to evaluate and fix a problem on the site.

For these reasons, DEQ is requiring inspections on a daily basis when construction dewatering is taking place. The inspection frequency in Section 4.2 still applies to all other portions of the site not conducting dewatering, unless the site is subject to increased or decreased inspection frequencies in Sections 4.3 or 4.4.

4.4 Reductions in Inspection Frequency

Section 4.4 identifies three different situations in which a reduction in the frequency of inspections is permitted. Each of these represents situations of comparatively lower risk for discharges to surface waters.

Section 4.4.1 provides the opportunity for operators to reduce their inspection frequencies in any areas of the site that have achieved temporary or final stabilization as required in Section 2.2.14.

1. Stabilized Areas.

   A. You may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, then once per month in any area of your site where the stabilization steps in Section 2.2.14.A have been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in Sections 4.2 and 4.3, as applicable. You must document the beginning and ending dates of this period in your SWPPP.

   B. Exception. For "Linear Construction Sites" (as defined in Appendix A) where disturbed

portions have undergone final stabilization at the same time active construction continues on others, you may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, in any area of your site where the stabilization steps in Section 2.2.14.A have been completed. After the first month, inspect once more within 24 hours of the occurrence of a storm event of 0.25 inches or greater. If there are no issues or evidence of stabilization problems, you may suspend further inspections. If "wash-out" of stabilization materials and/or sediment is observed, following re-stabilization, inspections must resume at the inspection frequency in Section 4.4.1.A. Inspections must continue until final stabilization is visually confirmed following a storm event of 0.25 inches or greater.

Areas of the site that have achieved temporary or final stabilization present a significantly lower risk of producing unacceptable discharges of pollutants in storm water to surface waters. DEQ expects that, especially for larger projects, where construction activities may take place in different phases in separate locations of the site, reducing site inspection frequency where areas have been stabilized will encourage stabilization to take place closer to the time that active disturbances have ended. It is DEQ's judgment that the reduction in inspection frequency will provide a benefit in reduced administrative burden to the operator.

This section requires inspections to be conducted twice per month for the first month, with no more than 14 calendar days between the two inspections, after stabilization has been completed before reducing the inspection frequency to once per month. This is in intended to ensure that operators catch any potential problems with stabilization measures early on and correct such problems before failure of stabilization measures and a prolonged discharge of pollutants occurs. The exception for linear construction sites acknowledges that long linear projects may feature portions of the site that are completed and stabilized months before the final portion of the project is stabilized. The exception provides flexibility for linear construction sites by allowing these operators to suspend further inspections on portions of their site that have met the final stabilization requirements following two inspections in the first month, no more than 14 calendar days apart, and no observed "wash-out" following one more inspection within 24 hours of a storm event of 0.25 inches or greater.

Section 4.4.2 allows operators whose construction projects occur in areas considered arid or semi-arid to reduce the frequency of inspection to account for the comparatively lower amounts of rainfall.

2. Arid, Semi-Arid, or Drought Stricken Areas (As defined in Appendix A). If it is the seasonally dry period (as defined in Appendix A) or a period in which drought is occurring, you may reduce the frequency of inspections to once per month and within 24 hours of the occurrence of a storm event of 0.25 inches or greater. You must document that you are using this reduced schedule and the beginning and end dates of the seasonally dry period in your SWPPP. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Section 4.7.1.D.

Section 4.4.2 of the permit includes exceptions to the permit's default inspection frequency for arid, semi-arid, and drought stricken areas. DEQ notes that it has included suggested references for construction operators to use to help determine if they are located in an arid or semi-arid area, and may therefore be eligible for the alternative stabilization timeframes that apply in those areas. Those references are included in the Appendix A definitions of "arid area" and "semi-arid area".

The permit also clarifies what DEQ means when it refers to the "seasonally dry period" for arid, semi-arid, and drought stricken areas. The phrase "seasonally dry period" is used in the CGP to restrict when operators can make use of the reduced inspection frequency in Section 4.4.2. The lack of a definition for seasonally dry period in the EPA 2017 and 2012 CGPs led to a number of questions from operators to EPA as to when this period begins and ends. To establish a consistent approach for the 2022 CGP and assist operators by making the permit terms more clear, DEQ is defining the "seasonally dry period" as a month in which the long-term average total precipitation is less than or equal to 0.5 inches.

The purpose of defining seasonally dry periods is to identify times and locations where:

1. The risk of a discharge producing storm event is below average, and
2. The ability to utilize vegetative stabilization measures on a site may be reduced due to lack of precipitation to sustain plant life.

DEQ is establishing the threshold for the seasonally dry period as 0.5 inches of total precipitation per month, as measured by long-term climate data, because it is consistent with a below average monthly rainfall total for arid and semi-arid areas, and it reflects a manageable risk of occurrence of storm events capable of producing storm water discharges during the dry period.

Appendix A defines "arid areas" as those with an annual rainfall of 0 to 10 inches (or an average of 0 to 0.83 inches/month), and "semi-arid areas" as those with an annual rainfall of 10 to 02 inches (or an average of 0.83 – 1.67 inches/month). A long term average 0.5 inch threshold is below the monthly average for arid areas and reflects a month wherein rainfall totals are below average (i.e. drier than average).

DEQ utilizes a 0.25 inch storm event as an indicator that a rainfall event of sufficient magnitude to generate a discharge may have occurred. A threshold of 0.5 inches is consistent with a risk of anywhere from one to two rainfall discharge producing events occurring during a seasonally dry month, which DEQ finds to be an acceptable and limited risk as applied to the permit conditions triggered by the seasonally dry period.

Locations and times meting the seasonally dry period definition were identified using 30 year climate normal maps derived from the Parameter-elevation Regressions on Independent Slopes Model (PRISM). For each month in the climate normal dataset, locations meeting the seasonally dry period definition were identified.

Guidance to permittees on how to use the seasonally dry period definition at individual sites:

For a project to qualify for adjusted stabilization timeframes or modified inspection frequencies, the project site must be located in an area that meets specific climate definitions. These definitions include: arid conditions, semi-arid conditions, drought stricken area, and the

seasonally dry period. The steps for determining if a project site qualifies for the permit flexibilities listed above are:

1. Determine if a site is in an arid or semi-arid location using any of the following:

    a. The NOAA National Mapping webpage (https://www.ncdc.noaa.gov/CAG/national/mapping)

    b. The PRISM Climate Group's Time Series Values for individual locations (https://prism.oregonstate.edu/explorer/)

    c. EPA's US EPA EnviroAtlas (https://www.epa.gov/enviroatlas).

    If the annual total precipitation is less than 10 inches, the site has arid conditions. If the annual total precipitation is greater than 10 inches but less than 20 inches, the site has semi-arid conditions. If the annual total precipitation is greater than 20 inches, the site does not meet the definitions for arid or semi-arid conditions.

    If the site does not meet the definitions for arid or semi-arid, proceed to Step 2 to determine if the site has drought-stricken conditions. If the site has arid or semi-arid conditions, proceed to Step 3 to determine the seasonally dry period for the project location.

2. Determine if a site is in a drought-stricken area using the NOAA U.S. Seasonal Drought Outlook (https://www.cpc.ncep.noaa.gov/products/expert_assessment/sdo_summary.php), and identifying if the project site is located in an area which is marked: (1) drought persists, (2) drought remains but improves, (3) drought removal likely, or (4) drought development likely. If the site is in a drought stricken area, proceed to Step 3 to determine the seasonally dry period for the project location.

3. Determine if it is the seasonally dry period for the site for the purposes of this permit using the EPA developed CGP Climate Lookup Tool. Note: the CGP Climate Lookup Tool can be found prior to the final permit in the proposed permit docket. The CGP Climate Lookup Tool allows permittees to determine if their construction project site is in an arid or semi-arid area, and if any months out of the year are considered seasonally dry. Classifications are based on long-term (1981-2010) climate data obtained from the PRISM Climate Group. Maps of arid and semi-arid areas, as well as seasonally dry areas by month, can be found on EPA's Construction General Permit website. If the project is operating during those months that are considered seasonally dry, the project qualifies for adjusted stabilization timeframes or modified inspection frequencies.

The reduced inspection frequency for arid, semi-arid, and drought-stricken areas still allows operators to identify potential problems that could result in a discharge of pollutants in the unlikely event that a storm event does occur.

Note that, similar to the requirements for conducting bi-weekly site inspections under Section 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of

the storm. See Section 4.2 of the permit for an example of how inspections should be conducted for multiple day storm events.

Section 4.4.3 enables operators that experience frozen conditions on their site to reduce their inspection frequency to account for the fact that a discharge will not be likely during this period of time.

> 3. Frozen Conditions.
>
> A. If you are suspending construction activities due to frozen conditions, you may temporarily suspend inspections on your site until thawing conditions (as defined in Appendix A) begin to occur if:
>
> i. Discharges are unlikely due to continuous frozen conditions that are likely to continue at your site for at least three months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, you must immediately resume your regular inspection frequency as described in Sections 4.2 and 4.3 as applicable;
>
> ii. Land disturbances have been suspended; and
>
> iii. All disturbed areas of the site have been stabilized in accordance with Section 2.2.14.A.
>
> B. If you are still conducting construction activities during frozen conditions, you may reduce your inspection frequency to once per month if:
>
> i. Discharges are unlikely due to continuous frozen conditions that are likely to continue at your site for at least three months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, you must resume your regular inspection frequency as described in Sections 4.2 and 4.3 as applicable; and
>
> ii. Except for areas in which you are actively conducting construction activities, disturbed areas of the site have been stabilized in accordance with Section 2.2.14.A.

The permit retains the waiver approach for projects that suspend all construction work during frozen conditions. The permit also allows operators to reduce inspection frequencies to once per month if the ground is frozen and they will still be conducting earth-disturbing activities. For both scenarios under which a reduction is possible, this permit includes the requirement that the disturbed areas be stabilized either vegetatively or non-vegetatively. This requirement also provides further assurance that in the case of an unexpected thaw or rain on snow event, the discharge of pollutants from all areas has been minimized.

4.5 Areas that Must Be Inspected

Section 4.5 describes the areas on the site that must be inspected.

> During your site inspection, you must inspect the following areas of your site at a minimum:
>
> 1. All areas that have been cleared, graded, or excavated and not yet stabilized consistent with

Section 2.2.14A;

2. All storm water controls, including pollution prevention controls, installed at the site to comply with this permit;[50]
3. Material, waste, borrow, and equipment storage and maintenance areas that are covered by this permit;
4. All areas where storm water typically flows within the site, including drainageways designed to divert, convey, and/or treat storm water;
5. All areas where construction dewatering is taking place, including storm water controls to treat the dewatering discharge and any channelized flow of water to and from those controls;
6. All points of discharge from the site; and
7. All locations where stabilization measures have been implemented.

You are not required to inspect areas that, at the time of the inspection, are considered unsafe to your inspection personnel.

DEQ is including among the areas that must be evaluated during an inspection any areas where construction dewatering is taking place, including storm water controls to treat the dewatering discharge and any channelized flow of water to and from those controls. This specification is reasonable to highlight the importance of inspecting these areas given the added focus on dewatering discharges and to ensure that controls are in place and operating properly to prevent erosion and discharges of sediment. See modifications related to dewatering requirements in Sections 2.4, 4.6.1, 4.7.1, and 5.1.5.

4.6 Requirements for Inspections

Section 4.6 includes specific requirements regarding the focus of the inspection.

1. During each site inspection, you must at a minimum;
   A. Check whether all storm water controls (i.e., erosion and sediment controls and pollution prevention controls) are properly installed, operational, and are working as intended to minimize pollutant discharges;
   B. Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;
   C. Identify any locations where new or modified storm water controls are necessary to meet the requirements of Sections 2 and/or 3;
   D. Check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to your discharge at points of discharge and, if applicable, on the banks of any waters of the U.S. flowing within or immediately adjacent to the site.

[50] This includes the requirement to inspect for sediment that has been tracked our from the site onto paved roads, sidewalks, or other paved areas consistent with Section 2.2.4

Check also for signs of sedimentation at points downstream from the point of discharge that could be attributable to your discharge; and

E. Identify any incidents of noncompliance observed.

2. If a discharge is occurring during your inspection:

A. Identify all discharge points at the site;

B. Observe and document the visual quality of the discharge[51], and take note of the characteristics of the storm water discharge, including color; odor; floating, settled or suspended solids; foam; oil sheen; and other indicators of storm water pollutants; and

C. Record any monitoring results collected in accordance with Section 3.3 or Section 3.4 in a monitoring log.

3. For dewatering inspections conducted pursuant to Section 4.5.5, record the following:

A. Approximate times that the dewatering discharge began and ended on the day of inspection;

B. Estimates of the rate (in gallons per day) of discharge on the day of inspection;

C. Whether or not a sediment plume, or a visible sheen or visible hydrocarbon deposits on the bottom or shoreline of the receiving water, was observed (note: if either are observed, corrective action is required pursuant to Section 5.1.5); and

D. Photographs of (1) dewatering water prior to treatment by a storm water control and the final discharge after treatment, (2) the storm water control; and (3) the point of discharge to any waters of the U.S. flowing through or immediately adjacent to the site.

E. Record any monitoring results in accordance with Section 3.3 in a monitoring log.

4. Based on the results of your inspection:

A. Complete any necessary maintenance repairs or replacements under Section 2.1.4 or under Section 5, whichever applies; and

B. Modify your SWPPP site map in accordance with Section 7.4.1 to reflect changes to your storm water controls that are no longer accurately reflected on the current site map.

DEQ is modifying Section 4.6.1.D to require that operators must check for and document signs of sedimentation downstream from the point of discharge that could be attributable to the discharge. DEQ does not specify a distance downstream of the site that operators must check for sedimentation that could be attributable to the discharge, given the variable site-specific conditions. Instead, DEQ expects that operators will account for the amount of sediment leaving the site in determining this distance.

[51] This documentation may be in the form of photographs of the discharge or may be a written description of the discharge.

DEQ is adding new requirements for inspections that are required during construction dewatering operations. DEQ previously discussed the new requirement for daily inspections when dewatering is occurring, and that the scope of the inspections is uniquely targeted at the dewatering operation and controls used to treat the discharge. DEQ is requiring the operator to record certain minimum details about dewatering discharges. Operators are required to record the following as part of their dewatering inspection:

- Approximate times that the dewatering discharge began and ended on the day of inspection, and estimates of the rate (in gallons per day) of discharge on the day of inspection;
- Whether a sediment plume sheen, or hydrocarbon deposit on the bottom or shorelines of the receiving water was observed; and
- Photographs of dewatering water prior to treatment by a storm water control and the final discharge after treatment, the storm water control, and the point of discharge to any waters of the U.S. flowing through or immediately adjacent to the site.

The purpose of requiring that the times of the dewatering discharge and the approximate discharge rate be reported is to keep documentation that will enable DEQ, if necessary, and the operator, to better understand how often the discharge takes place and the total rate and volume of the discharge. Collecting this information could also assist the operator in adjusting controls where necessary to improve their effectiveness in preventing turbid discharges.

For the Section 4.6.3.B requirement to estimate the approximate discharge rate on the day of dewatering inspection, one relatively straightforward approach that operators may rely on is to use the manufacturer's design pump rating for the pump model in use. For example, a pump rated at 164 gpm (gallon per minute) by the manufacturer can be assumed to be discharging at 164 gpm in most cases. To convert to gallons per day, multiply the rate in gpm by the ration of minutes in one day (1,440 minutes per day), resulting in a discharge rate of 236,160 gallons per day. In cases where the dewatering discharge is being pumped over long distances or a substantial distance uphill, which will result in a reduced pump rate relative to manufacturer's specification, the operator may improve the accuracy of the estimate by estimating the time required to fill a container of a known volume. For example, if it takes 60 seconds to fill an empty 55 gallon barrel, the estimated discharge rate is 55 gpm, or 79,200 gallons per day.

The requirement to check during the inspection whether there are any signs of a sediment plume, sheen, or oily deposit from the dewatering discharge is intended to provide the operator with a straightforward way of looking for any pollution problems that can be corrected expeditiously. If a sediment plume is visible to the observer, then it is likely that turbidity levels are excessive. A visible plume is also a sign that the discharge may be exceeding the applicable water quality criteria for turbidity or other sediment related criteria. Where such obvious signs of pollution are visible during an inspection, the permit would then require that the operator initiate immediate steps to correct the problem pursuant to sections 5.2 or 5.3.

The requirement to take photographs of the dewatering practices in operation provides another visual way to document the discharge and how effectively the controls are working. The photographs can be taken in any form as long as they fairly represent the conditions of the dewatering operation and discharge on the day of the inspection. If the operator chooses to use

digital photos, these should be kept with the inspection records in such a way that they can be viewed by DEQ, if necessary, on the date of the inspection.

DEQ is also clarifying that as part of the inspection, the operator must modify the SWPPP site map if the site's storm water controls are no longer accurately reflected on the current site map. These updates were already required as part of the EPA 2017 CGP in Part 7.4.1, but the clarification serves as a reminder in the permit that if changes are observed during an inspection from what was depicted on the site map, this would be the appropriate time to update the map.

4.7 Inspection Report

Section 4.7 provides a consistent means of documenting the results of each inspection.

1. You must complete an inspection report within 24 hours of completing any site inspection. Each inspection report must include the following:
   A. The inspection date;
   B. Names and titles of personnel conducting the inspection;
   C. A summary of your inspection findings, covering at a minimum the observations made in accordance with Section 4.6, including any necessary routine maintenance pursuant to Section 2.1.4.B or corrective action pursuant to Section 5.1;
   D. If you conducted an inspection because of rainfall measuring 0.25 inches or greater, you must include the applicable rain gauge or weather station readings that triggered the inspection; and
   E. If you determined that it is unsafe to inspect a portion of your site, you must describe the reason you found it to be unsafe and specify the locations to which this condition applies.

Section 4.7.1 requires, similar to the concept of a log book, that an inspection report be completed for each inspection. It is DEQ's judgment that requiring an inspection report to be kept will improve the organization of the inspection related records, and make it easier for operators to keep track of their findings from inspection to inspection.

Section 4.7.2 requires that inspection reports, whether in paper or electronic format, provide accountable documentation of compliance with the inspection requirements in this permit.

2. Each inspection report must be signed in accordance with Section 9.1.11

Section 4.7.3 requires inspection reports to be kept at the site and available to DEQ inspectors.

3. You must keep a copy of all inspection reports at the site or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by DEQ.[52]

[52] Inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if the records are:

DEQ is including a footnote to specify that inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the electronic reports can be accessed and read in the same way as paper, the permit requires that records be in a format that can be read in a similar manner as a paper record, that records be legally dependable with no less evidentiary value than their paper equivalent, and that records be immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

DEQ provides further guidance to operators on specific attributes of an electronic system that need to be present to adequately meet the requirements stated above as follows:

Readability/Legal Dependability

DEQ expects that an electronic recordkeeping system used in compliance with Section 4.7, Section 5.4, and Section 7.3 will generally ensure that records created and/or maintained are readable and legally dependable with no less evidentiary value than their paper equivalent. The following are attributes of an electronic recordkeeping system that will ensure readability and legal dependability:

1. From any other point of access to the electronic recordkeeping system, electronic records, including signatures, certifications, and alterations, can be:
    a. Displayed to DEQ, including its authorized representatives, in a format that can be read in a manner similar to a paper record and that associates data with field names or other labels that give the data contained in the record meaning and context (not solely in a computer code or data string),
    b. Easily copied for DEQ, including its authorized representatives, to review and access at DEQ staff computers using non-proprietary software, and
    c. Can easily be printed to paper form;
2. Associated metadata in their native format is preserved and available upon request
3. Electronic records cannot be modified without detection and are preserved in a manner that cannot be altered once created. For example, any changes to an electronic record are automatically and indelibly recorded in a logically associated (i.e. cryptographically bound) audit trail that records each change made without obscuring the data to which the modification is made or its antecedents. If audit trail technology is not feasible, iterative copies of electronic documents may be kept. Having a system to detect document modifications is important for final versions of documents kept for compliance purposes and does not have to include "draft" documents that are still undergoing changes;

- In a format that can be read in a similar manner as a paper record;
- Legally dependable with no less evidentiary value than their paper equivalent;
- Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

For additional guidance on the proper practices to follow for the electronic retention of inspection report records, refer to the Fact sheet discussion related to Section 4.7.3.

4. The electronic recordkeeping system identifies any person who creates, certifies, or modifies an electronic record;

5. Originals of any electronic record are immediately and automatically transferred to and held at a single location by a custodian of records who is not an author, certifier, or modifier of the electronic records. The original electronic record is secured in a fashion that protects it from tampering or destruction;

6. The electronic recordkeeping system identifies:

    a. The name, address, telephone number, and email address for the custodian of records described in 4 above,

    b. The address and owner of the location where the original electronic record is located.

    c. The electronic records and their associated metadata remain available and the operator can demonstrate that the records have not been changed in any modification of the recordkeeping system or migration to a successor recordkeeping system;

7. Clear instructions guide users of the electronic recordkeeping system in proper use of the system and unambiguously communicate the legal significance of using an electronic signature device; and computer systems (including hardware and software), controls, and attendant documentation that are part of the electronic recordkeeping system are readily available for, and subject to, agency inspection.

DEQ will generally consider electronic records to be accessible enough to be considered to be stored at the site when the operator is able to, immediately, upon request, provide to government officials or authorized representatives:

1. Paper or electronic copies of requested records required to be kept pursuant to section 4.7, section 5.4, and Section 7.3; and

2. Electronic access, using hardware and software available at the site, to required permit records via electronic storage at the site, or via direct access to an electronic system of records stored elsewhere, including legacy systems that have been migrated to a current system, provided that the location of the original record is within the United States.

Section 4.7.4 requires all reports be kept for a minimum of three years.

4. You must retain all inspection reports completed for this Section for at least three years from the date that your permit coverage expires or is terminated.

4.8 Inspections by DEQ

Section 4.8 requires operators to provide access to DEQ (or its authorized representatives) in order to conduct site inspections of its own for the purposes of determining compliance with the permit.

You must allow DEQ, or an authorized representative of DEQ, to conduct the following activities at reasonable times. To the extent that you are utilizing shared controls that are not onsite to comply with this permit, you must make arrangements for DEQ to have access at all reasonable times to those areas where the shared controls are located.

Pursuant to Idaho Code §39-108, the permittee shall allow DEQ's compliance, inspection, and enforcement (CIE) personnel, or authorized representative (including an authorized contractor acting as a representative of DEQ), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter onto all areas of the site, including any construction support activity areas covered by this permit, any off-site areas where shared controls are utilized to comply with this permit, discharge locations, adjoining waterbodies, and locations where records are kept under the conditions of this permit;
2. Access and copy and records that must be kept under the conditions of this permit;
3. Inspect your construction site, including any construction support activity areas covered by this permit (see Section 1.2.1.C), any storm water controls installed and maintained at the site, and any off-site shared controls utilized to comply with this permit; and
4. Sample or monitor for the purpose of ensuring compliance.

This authority is also included in the Standard Permit Conditions in Section 9, but DEQ includes it here for more visibility as it directly relates to site inspections.

5. Corrective Actions

5.1 Conditions Triggering Corrective Action

Section 5.1 explains when an operator is expected to take corrective action.

You must take corrective action to address any of the following conditions identified at your site:

1. A storm water control needs repair or replacement that will take more than 24 hours to complete. Pursuant to Section 2.1.4.C, however, where you find it necessary to repeatedly (i.e., 3 or more times) conduct the same routine maintenance fixes (repairs or replacements that take less than 24 hours) to the same control, or you find that the control was not installed or designed correctly in accordance with Section 2.1, you are also required to take corrective action in accordance with this Section; or
2. A storm water control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or
3. Your discharges are not meeting applicable WQS; or
4. A prohibited discharge has occurred (See Section 1.3); or
5. You observe a sediment plume or a visible sheen or visible hydrocarbon deposits on the bottom or shoreline of the receiving water during discharge from site dewatering activities (See Section 4.6.3.D), or you are informed by DEQ, EPA, or local authorities of such

conditions. Note that where you observe any of these conditions you are required to take immediate action to address the condition consistent with Section 5.2.1 (in addition to taking other steps required in Section 5.2 to correct the problem), including immediately suspending the discharge and taking steps to ensure that the controls being used are operating effectively.

6. Your turbidity monitoring shows that your discharge exceeds WQS (discharge turbidity 50 or more NTU above background turbidity instantaneously, or 25 NTU above background turbidity on a rolling 10 day average).

7. Your pH monitoring indicates that your discharge is outside the range of the WQS for pH (6.5 – 9.0 su).

DEQ is clarifying that corrective action is triggered when the operator repeatedly conducts the same routine maintenance pursuant to Section 2.1.4 to the same control, or that a control was not designed or installed correctly consistent with Section 2.1. This conforms with updates to Section 2.1.4.

DEQ is adding new corrective action triggers to reflect the inspection requirements for dewatering operations in Section 4.6.3.D where the operator observes a sediment plume, sheen, or hydrocarbon deposit on the bottom or shoreline of the receiving water. Corrective action would also be required if the operator is notified by DEQ, or another state or local authority, that these same conditions were observed and are attributable to the site's dewatering discharge. DEQ also notes in Section 5.1.5 that where the permittee observes any of these conditions, it must take immediate action to address the condition consistent with Section 5.2.1, including immediately suspending the discharge and taking steps to ensure that the controls being used are operating efficiently.

DEQ is adding new corrective action triggers to reflect the monitoring requirements for turbidity and pH in section 3.4 where the operator must monitor for turbidity and pH when a discharge from the site directly enters a receiving water body. Corrective action is required when turbidity monitoring or pH monitoring indicates that the discharge may exceed WQS.

5.2 Corrective Action Deadlines

Section 5.2 establishes deadlines for initiating and completing work to correct the conditions identified at the site in accordance with Section 5.1 corrective action is distinguished from routine maintenance of storm water controls and pollution prevention measures in sections 2.1.4 and 2.3.

For any corrective action triggering conditions in Section 5.1, you must:

1. Immediately take all reasonable steps to address the condition, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events;

2. When the problem does not require a new or replacement control or significant repair, the corrective action must be completed by the close of the next business day;

3. When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than seven calendar days from the time of discovery. If it is infeasible to complete installation or repair within seven calendar days, you must document in your records why it is infeasible to

> complete the installation or repair within the 7-day timeframe and document your schedule for installing the storm water controls and making it operational as soon as feasible after the 7-day timeframe. Where these actions result in changes to any of the storm water controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within seven calendar days of completing this work.

DEQ notes that if the condition identified in the section constitutes a permit violation, correcting it does not eliminate the original violation. However, enforcement authorities will consider the promptness and effectiveness of any corrective action taken in determining an appropriate response. Additionally, failing to take corrective action in accordance with this Section will be an additional permit violation.

Operators are required to take immediate, reasonable steps to address any conditions at the site triggering corrective action to minimize pollutant discharges from the site. "Immediate" in this context means on the same day that a condition requiring corrective action is found, take steps to minimize or prevent the discharge of pollutants unless a new or replacement control or significant repair is required.

Operators are required to complete corrective actions that do not require a new or replacement control or significant repair within the timeline specified in Section 5.2.2. Examples of corrective actions that do not require significant repair or replacement include sweeping up tracked out sediment, cleaning up spilled materials, and minor repairs such as fixing a hole in a silt fence. DEQ notes that if the problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

Operators are required to complete actions that do require a new or replacement control or significant repair within the timeline specified in Section 5.2.3. Examples of corrective actions that require significant repair or replacement include extensive removal and replacement of an existing control or controls, or repairing a sophisticated treatment control, such as a chemical treatment system.

Section 5.2.3 also ensures that the SWPPP adequately reflects the storm water controls being implemented on the site. Where new controls are installed and made operational, or a modification is made to an existing control, the SWPPP must be updated to reflect these changes. Note that this is true for all such modifications, including those made to implement corrective actions.

5.3 Corrective Action Required by DEQ

Section 5.3 clarifies that, in addition to corrective actions that may result from the operator's own inspections, DEQ may also require corrective actions to address permit violations found during the agency's inspections.

> You must comply with any corrective actions required by DEQ as a result of permit violations found during an inspection carried out under Section 4.8.

5.4 Corrective Action Log

Section 5.4 establishes requirements for proper documentation of all corrective actions that must be taken under this section of the permit. Operators are required to document problems found on the site and the corresponding corrective actions taken and applicable implementation dates.

DEQ is aware that some operators have found it confusing to have two different types of reports under the CGP, an inspection report and a corrective action report. In addition, some operators have treated problems found on the site that should be treated as corrective actions, which necessitate the completion of a corrective action report, as routine maintenance fixes instead. DEQ has attempted to clarify the difference between the types of fixes that are considered "routine maintenance" from those that are considered corrective actions by defining routine maintenance in the permit.

DEQ is requiring operators to document in a "corrective action log" any information related to the condition requiring corrective action and the actions taken to correct the problem. This corrective action log must be signed by a person meeting the requirements of a "duly authorized representative". DEQ intends that this will make it clearer that the corrective action log does not need to be signed by the most senior corporate official, and will make this documentation easier to complete.

Section 5.4.1 requires the operator to document the completion of the corrective action within 24 hours, regardless of how long it took to complete the corrective action.

1. For each corrective action taken in accordance with this Section, you must record the following in a corrective action log:
   A. Within 24 hours of identifying the corrective action condition, document the specific condition and the date and time it was identified.
   B. Within 24 hours of completing the corrective action (in accordance with the deadlines in Section 5.2), document the actions taken to address the condition, including whether any SWPPP modifications are required.

Section 5.4.2 establishes requirements for accountable documentation of compliance with the corrective action requirements in the permit.

2. Each entry to the corrective action log must be signed in accordance with Section 9.1.11.

Section 5.4.3 requires operators to provide access to these records to DEQ or authorized representatives during an on-site inspection.

3. You must keep a copy of the corrective action log at the site or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by DEQ.[53]

[53] The corrective action log may be prepared, signed, and kept electronically, rather than in paper form, if the records are:

DEQ has included a clarifying footnote in Section 4.7.3 to specify that inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the electronic reports can be accessed and read in the same way as paper, the permit requires that the records be: in a format that can be read in a similar manner as a paper record, that records be legally dependable with no less evidentiary value than their paper equivalent, and that records be immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

Section 5.4.4 requires operators to retain all reports a minimum of three years.

4. You must retain the corrective action log for at least three years from the date that your permit coverage expires or is terminated.

6. Storm Water Team Formation and Staff Training Requirements

Section 6 describes the storm water team responsibilities and the training requirements associated with members of the team.

6.1 Storm Water Team

Section 6.1 describes the personnel required to manage storm water discharges. It describes personnel responsible for a variety of tasks related to reducing pollution in discharges authorized by the 2022 CGP.

Each operator, or group of operators, must assemble a "storm water team" that will be responsible for carrying out activities necessary to comply with this permit. The storm water team must include the following people:

1. Personnel who are responsible for the design, installation, maintenance, and/or repair of storm water controls (including pollution prevention controls);
2. Personnel responsible for the application and storage of treatment chemicals (if applicable);
3. Personnel who are responsible for conducting inspections as required in Section 4.1; and
4. Personnel who are responsible for taking corrective actions as required in Section 5.

Members of the storm water team must be identified in the SWPPP pursuant to Section 7.2.2.

- In a format that can be read in a similar manner as a paper record;
- Legally dependable with no less evidentiary value than their paper equivalent;
- Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

For additional guidance on the proper practices to follow for the electronic retention of inspection report records, refer to the Fact sheet discussion related to Section 4.7.3.

6.2 General Training Requirements for Storm Water Team Members

The staff training requirements in Section 6.2 are to ensure that each member of the storm water team understands the requirements of the permit and his or her particular responsibilities relating to complying with those requirements.

Prior to the commencement of construction activities, you must ensure that all persons[54] assigned to the storm water team understand the requirements of this permit and their specific responsibilities with respect to those requirements, including the following related to the scope of their job duties:

1. The permit deadlines associated with installation, maintenance, removal of storm water controls and stabilization;
2. The location of all storm water controls on the site required by this permit and how they are to be maintained;
3. The proper procedures to follow with respect to the permit's pollution prevention requirements; and
4. When and how to conduct inspections, record applicable findings, and take corrective actions. Specific training requirements for person conducting site inspections are included in Section 6.3.

You are responsible for ensuring that all activities on the site comply with the requirements of this permit. You are not required to provide or document formal training for subcontractors or other outside service providers (unless the subcontractors or outside service providers are responsible for conducting the inspections required in Section 4, in which case you must provide such documentation consistent with Section 7.2.2), but you must ensure that such personnel understand any requirements of this permit that may be affected by the work they are subcontracted to perform.

6.3 Training Requirements for Persons Conducting Inspections

Section 6.3 describes the specific training required for individuals conducting inspections according to the CGP.

Any personnel conducting site inspections pursuant to Section 4 on your site must, at a minimum, either:

1. Have completed the EPA construction inspection course developed for the EPA CGP and have passed the exam; or
2. Hold a current valid construction inspection certification or license from a program that must,

[54] If the person requiring training is a new employee who starts after you commence construction activities, you must ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit. For emergency-related projects, the requirement to train personnel prior to commencement of construction activities does not apply, however, such personnel must have the required training prior to NOI submission.

at a minimum, cover the following:

A. Principles and practices of erosion and sediment control and pollution prevention practices at construction sites;

B. Proper design, installation, and maintenance of erosion and sediment controls and pollution prevention practices used at construction sites; and

C. Performance of inspections, including the proper completion of required reports and documentation, consistent with the requirements of Section 4.

3. A member of the storm water team may also conduct inspections if they are working under the supervision of a person who has the qualifications described above.

6.4 Storm Water Team's Access to Permit Documents

Section 6.4 explains that all members of the storm water team must have access to the permit documents.

> Each member of the storm water team must have easy access to an electronic or paper copy of applicable portions of this permit, the most updated copy of the SWPPP, and other relevant documents or information that must be kept with the SWPPP.

The EPA 2017 CGP required that the operator ensure that "all activities on the site comply with the requirements of the permit," however the operator was not required to document training for subcontractors or other outside service providers. DEQ has modified this to require training for subcontractors or other outside service providers who are responsible for carrying out inspections in Section 4. The training requirements are limited to site inspectors. While it is anticipated that this change will not significantly impact permittees, this change will require that operators include as part of the SWPPP documentation showing that any firms hired to conduct inspections comply with the training requirements of Section 6.3.

Section 6.3 specifies that anyone carrying out inspections must either complete the EPA construction inspection course developed for the EPA 2022 CGP and pass the exam, hold a valid certification or license from a non-EPA training program that covers essentially the same principles. The requirements specify that the non-EPA training program must cover, at minimum:

- Principles and practices of erosion and sediment control and pollution prevention practices at construction sites;
- Proper design, installation, and maintenance of erosion and sediment controls and pollution prevention practices used at construction sites; and
- Performance of inspections, including the proper completion of required reports and documentation, consistent with the requirements of Section 4.

This requirement also contains an exception to the new training requirements for members of the storm water team if they are working under the supervision of a person who has the qualifications.

EPA is in the process of developing a construction inspection training program that will be made free to operators, along with an exam that, if passed satisfactorily, will provide the person with documentation showing that they have successfully completed the EPA course. EPA intends to have the training program ready for use by the issuance of the final EPA 2022 CGP. Any training requirement that covers similar material to what is described above will be considered adequate to meet the 6.3.B requirements.

The new training requirements are essentially an extension of what the 2017 EPA CGP required for the "qualified person" to conduct inspections previously. The qualified person requirements were identified in a footnote as "a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact storm water quality, and the appropriate skills and training to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit." In many ways, the new requirements in Section 6.3 are just a different way of establishing the same core training requirements.

DEQ is allowing construction staff who have not personally received the training required in Section 6.3 to conduct inspections if they are directly supervised by someone who has been trained appropriately. This allows for site-specific flexibility while ensuring that the inspection work is overseen by someone with the appropriate training to determine whether the inspection and required reporting are done correctly.

7. Storm water Pollution Prevention Plan (SWPPP)

Section 7 describes the requirements for developing and maintaining a SWPPP.

7.1 General Requirements

Section 7.1 establishes the overall requirement that operators develop SWPPPs prior to submitting their NOIs. The SWPPP must be in place prior to discharging so that the appropriate erosion and sediment controls are selected and to ensure that the eligibility and other requirements under the permit will be met.

> All operators associated with a construction site under this permit must develop a SWPPP consistent with the requirements in Section 7 prior to their NOI submittal.[55, 56] The SWPPP must be kept up to date throughout coverage under this permit. If a SWPPP was prepared under a previous version of this permit, the operator must review and update the SWPPP to

[55] The SWPPP does not establish the effluent limits and/or other permit terms and conditions that apply to your site's discharges; these limits, terms, and conditions are established in this permit.

[56] Where there are multiple operators associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, each operator is responsible for compliance with the permit's terms and conditions. In other words, if Operator A relies upon Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit. In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not compromise any other operators' controls and/or shared controls.

ensure that this permit's requirements are addressed prior to submitting an NOI for coverage under this permit.

The SWPPP is intended to serve as a road map for how the construction operator will comply with the effluent limits and other conditions of the permit. The language in permit footnote 60 (fact sheet footnote 53) clarifies that the SWPPP does not establish the effluent limits that apply to the construction site's discharges; these limits are established in the permit. DEQ emphasizes that while the requirement to develop a SWPPP, to keep it updated, and to include in it all of the required minimum contents consistent with Section 7.2 are enforceable permit requirements, the site-specific details of these SWPPPs do not establish separately enforceable limits, terms, or conditions of the permit. The fact that the SWPPP is an external tool and not considered to include effluent limits enables the operator to be able to modify and retool its approach during the course of the permit term in order to continually improve how it complies with the permit.

The language in permit footnote 61 (fact sheet footnote 54) provides that where there are multiple operators associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. For instance, if both the owner and the general contractor of the construction site meet the definition of an operator and must obtain IPDES permit coverage, either party could develop a group SWPPP that applies to both parties, as long as the SWPPP addresses both parties' permit related functions. Another example is where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPs, and divide amongst themselves various permit related functions provided that each SWPPP, or a group SWPPP, documents which operator will perform each permit-related function, including those related to the installation and maintenance of the shared control. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, all operators are legally responsible for compliance with the permit. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit.

In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not compromise any other operators' controls and/or any shared controls.

7.2 SWPPP Contents

Section 7.2 includes the minimum requirements that must be included in the SWPPP.

1. All site operators. Include a list of all other operators who will be engaged in construction activities at the site, and the areas of the site over which each operator has control.
2. Storm water team. Identify the personnel (by name and position) that you have made part of the storm water team pursuant to Section 6.1, as well as their individual responsibilities, including which members are responsible for conducting inspections.

   Include documentation that each member of the storm water team has received the training

required by Section 6. If personnel on your team elect to complete the EPA inspector training program pursuant to Section 6.3.1, you must include copies of the certificate showing that the relevant personnel have completed the training and passed the exam.

Section 7.2.1 identifies information about other operators engaged in activities covered under the permit. Section 7.2.1 restates the requirement from prior EPA CGPs that the SWPPP must describe which operators the SWPPP covers, and the areas of the site over which each operator has control.

Section 7.2.2 requires that specific information about the storm water team be included in the SWPPP. This requirement identifies who is responsible for ensuring compliance with the permit requirements. Identification of staff members on the storm water team in the SWPPP provides notice and clarification to facility staff and management of the responsibilities of certain key staff for following through on compliance with the permit's conditions and limits.

The permit specifies that the SWPPP must include documentation showing that each member of the storm water team identified in Section 6.1 has received the required training pursuant to Section 6.

Section 7.2.3 requires a description of the nature of the construction activities taking place on the construction site providing general information about the construction project, which can be readily understood by a DEQ inspector or other third party who may be unfamiliar with the purpose and general layout of the project.

3. Nature of Construction Activities.[57] Include the following:

   A. A description of the nature of your construction activities, including the age or dates of past renovations for structures that are undergoing demolition;

   B. The size of the property (in acres or length in miles if a linear construction site);

   C. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);

   D. A description of any on-site and off-site construction support activity areas covered by this permit (see Section 1.2.1.C);

   E. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;

   F. A description and projected schedule for the following:

      i. Commencement of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (i.e., excavating, cutting, filling), final grading, and creation of soil and vegetation

[57] If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

stockpiles requiring stabilization;

ii. Temporary or permanent cessation of construction activities in each portion of the site;

iii. Temporary or final stabilization of exposed areas for each portion of the site; and

iv. Removal of temporary storm water controls and construction equipment or vehicles, and the cessation of construction related pollutant generating activities;

G. A list and description of all pollutant generating activities[58] on the site. For each pollutant generating activity, include an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers, pesticides, paint, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels) associated with that activity, which could be discharged in storm water from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to storm water discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed or removed during construction; and

H. Business days and hours for the project;

I. If you are conducting construction activities in response to a public emergency (See Section 1.4), a description of the cause of the public emergency (e.g., mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services), information substantiating its occurrence (e.g., state disaster declaration or similar state or local declaration), and a description of the construction necessary to reestablish the affected public services.

Identification of the size of the property, total area expected to be disturbed by construction activities, description of construction support activities, and the area expected to be disturbed provides the operator, among other things, with information about properly designing and installing storm water control measures to minimize the discharge of pollutants, as well as information about the placement and type of stabilization practices that should be implemented to minimize the discharge of pollutants in storm water.

This section also requires the schedule for activities such as commencement of construction, temporary or permanent cessation of construction, temporary or final stabilization, and removal of controls. Operators are encouraged to consider developing a site phasing plan as part of the schedule for activities. The purpose of requiring documentation of the sequencing of construction activities is to assist operators with planning their construction activity sequencing in conjunction with the control measures they intend to use to meet the effluent limits in the permit. Proper construction site planning limits the amount of land disturbed at one time and limits the exposure of unprotected soils through rapid stabilization, which in turn reduces the amount of sediment that gets discharged from the construction site. This requirement provides operators a better understanding of the site's characteristics throughout all phases of construction

[58] Examples of pollutant-generating activities include paving operations; concrete, paint, and stucco washout and waste disposal; solid waste storage and disposal; and dewatering operations.

activity, which will help them to plan for the types of storm water control measures necessary to meet effluent limits. It is DEQ's judgment that documenting this schedule of activities will help operators to minimize earth disturbances to the extent necessary for the construction activity, which will also minimize pollutants discharged in storm water. If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

The permittee is also required to list any known hazardous or toxic substances, such as PCBs and asbestos, which will be disturbed or removed during construction, in the description of each pollutant generating activity. Operators must also now document the business days and hours for the project so that DEQ, or any authorized representative can be informed of normal operating hours in the instance of an inspection in accordance with Section 4.8 of the permit.

Section 7.2.4 requires that the SWPPP contain a legible site map, or series of maps. In the permit, DEQ kept a similar permit from the 2012 EPA CGP that divided the site map requirements into subcategories to provide greater clarity for the various site map requirements. The requirements in Section 7.2.4.A and 7.2.4.B provide a visual depiction of where construction activities are occurring in relation to the boundaries of the property.

4. Site Map. Include a legible map, or series of maps, showing the following features of the site:
   A. Boundaries of the property;
   B. Locations where construction activities will occur, including:
      i. Locations where construction activities will occur (note any phasing), including any demolition activities;
      ii. Approximate slopes before and after major grading activities (note any steep slopes [as defined in Appendix A]);
      iii. Locations where sediment, soil, or other construction materials will be stockpiled;
      iv. Any water of the U.S. crossings;
      v. Designated points where vehicles will exit onto paved roads;
      vi. Locations of structures and other impervious surfaces upon completion of construction; and
      vii. Locations of onsite and offsite construction support activities covered by this permit (See Section 1.2.1.C);
   C. Locations of any waters of the U.S. within the site and all waters of the U.S. located within one mile downstream of the site's discharge point(s). Also identify if any are listed as impaired or are identified as Tier II or Tier III water;
   D. Any areas of federally listed critical habitat within the site and upstream and downstream from the storm water discharge point into a stream segment that may be affected by these

discharges;

E. Type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures);

F. Drainage patterns of storm water and authorized non-storm water before and after major grading activities;

G. Storm water and authorized non-storm water discharge locations including:

   i. Locations where storm water and/or authorized non-storm water will be discharged to storm drain inlets;[59] and

   ii. Locations where storm water or authorized non-storm water will be discharged directly to waters of the U.S. (i.e., not via a storm drain inlet);

H. Locations of all potential pollutant generating activities identified in Section 7.2.3.G;

I. Locations of storm water controls, including natural buffer areas and any shared controls utilized to comply with this permit; and

J. Locations where polymers, flocculants, or other treatment chemicals will be used and stored.

DEQ is clarifying the site map requirement in 7.2.4.D to identify areas of federally listed critical habitat within the site and/or at discharge locations. The modification recognizes the existing definition of "action area" in Appendix A that specifically includes upstream and/or downstream from the storm water discharge point into a stream or water body segment that may be affected by these discharges.

Section 7.2.4.C requires visual documentation that provides operators with information necessary to comply with the requirements for impaired waters, and Tier II and III protected waters. Identifying the location of these waters on the site map will also help operators comply with the Erosion and Sediment Control requirements, particularly those related to buffers, and pollution prevention standards.

Section 7.2.4.D requires documentation on the site map of areas of threatened or endangered species critical habitat.

Section 7.2.4.E requires a map of pre-construction cover on the site to assist operators in understanding how storm water moves onto, through, and off the property prior to construction, and how any changes in this cover due to construction activities may affect storm water discharges from the site.

Section 7.2.4.F requires a map to show the flow of storm water on the site. This map will provide valuable information to assist with planning, designing, and installing the appropriate storm

[59] The requirement to show storm drain inlets in the immediate vicinity of the site on your site map only applies to those inlets that are easily identifiable from your site or from a publicly accessible area immediately adjacent to your site.

water control measures necessary to meet the permit's requirements regarding erosion and sediment controls, pollution prevention, and stabilization. Specifically, it will also assist the operator with complying with the requirements in Section 2.2.2.

The requirements in Section 7.2.4.G inform the operator and, for DEQ's purposes, documents where storm water discharges will occur. There are multiple uses for the information in Section 7.2.4.G, among which include:

- Learning where sewer inlet protections will need to be installed prior to commencing construction disturbances;
- Helping to plan storm water controls that will reduce the erosive force of the discharge.

The permit notes that the requirement to show storm drain inlets in the immediate vicinity of the site only applies to those inlets that are easily identifiable from the site or from a publicly accessible area immediately adjacent to the site.

The requirement in Section 7.2.4.H to identify the locations of all pollutant generating activities on the site map will provide operators with an understanding of how the location of their various pollutant generating activities will correspond to the areas of disturbance at the site, the potential impacts of where these activities are located on the discharge pollutants, and the ideal locations for storm water control measures to reduce or eliminate such discharges. This information can be used to comply with the pollution prevention requirements in Section 2.3.

The requirement in Section 7.2.4.I to show on the site map the location of storm water control measures is intended to provide a spatial correlation between pollutant sources on the site, the flow of storm water through and from the site, and the locations of waters of the U.S.

It is DEQ's judgment that by requiring such information on the site map, the operator will be better able to locate storm water control measures strategically so as to comply with the permit's requirements for erosion and sediment and pollution prevention in sections 2.2 and 2.3. the requirement to show on the site map where areas of exposed soil will be stabilized, or have already been stabilized, provides operators with a visual aid that will help them to comply with the temporary and final stabilization requirements in Section 2.2.14. The requirement to document natural buffer areas is included to help operators implement Section 2.2.1 to "provide and maintain natural buffers."

The requirements in Section 7.2.4.J to show where chemicals will be applied on the site, and where they will be stored, is included to help operators implement Section 2.2.13 and Section 2.3.3. This requirement encourages the operator to think strategically about where the chemicals are applied and stored to minimize the risk of accidental release.

Section 7.2.5 requires operator to create a comprehensive list of all non-storm water discharges expected to occur from the site. Documentation non the SWPPP of all non-storm water discharges from the site provides operators with information that will help them to minimize non storm water associated pollutant discharges, and to ensure that only authorized non storm water discharges occur.

5. Non-Storm water Discharges. Identify all authorized non-storm water discharges in Section

1.2.2 that will or may occur.

Section 7.2.6 requires operators to include in the SWPPP a description of storm water controls that will be implemented. Although this Section requires the SWPPP to include details on storm water controls that will be implemented, departing from the individual design details on the site is not considered a permit violation.

A. For each of the Section 2.2 erosion and sediment control effluent limits, Section 2.3 pollution prevention effluent limits, and Section 2.4 construction dewatering effluent limits, as applicable to your site, you must include the following:

   i. A description of the specific controls to be implemented to meet the effluent limit;

   ii. Any applicable storm water control design specifications (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon);[60]

   iii. Routine storm water control maintenance specifications; and

   iv. The projected schedule for storm water control installation/implementation.

The requirements in Section 7.2.6.A have been reorganized from the 2017 EPA CGP to follow the organization of the requirements in Section 2. The permit notes that design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.

Section 7.2.6.B requires the following information also be in the SWPPP, as applicable.

B. You must also include any of the following additional information as applicable.

   i. Natural buffers and/or equivalent sediment controls (See Section 2.2.1 and Appendix E). You must include the following:

      a. The compliance alternative to be implemented;

      b. If complying with alternative 2, the width of natural buffer retained;

      c. If complying with alternative 2 or 3, the erosion and sediment controls used to achieve an equivalent sediment reduction, and any information you relied upon to demonstrate the equivalency;

      d. If complying with alternative 3, a description of why it is infeasible to provide and maintain an undisturbed natural buffer of any size;

      e. For "Linear Construction Sites" where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a

[60] Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.

description of any buffer width retained and/or supplemental erosion and sediment controls installed; and

f. A description of any disturbances exempt under Section 2.2.1 that occur within 50 feet of a water of the U.S.

ii. Perimeter controls for a "Linear Construction Site" (See Section 2.2.3.D). For areas where perimeter controls are not feasible, include documentation to support this determination and a description of the other practices that will be implemented to minimize discharges of pollutants in storm water associated with construction activities.

Note: Routine maintenance specifications for perimeter controls documented in in the SWPPP must include the Section 2.2.3.A requirements that sediment be removed before it has accumulated to one half of the above ground height of any perimeter control.

iii. Sediment Track Out Controls (See Sections 2.2.4.B and 2.2.4.C). Document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit.

iv. Sediment Basins (see Section 2.2.12). In circumstances where it is infeasible to utilize outlet structures that withdraw water from the surface, include documentation to support this determination, including the specific conditions or time periods when this exception will apply.

v. Treatment Chemicals (see Section 2.2.13), you must include the following:

a. A listing of the soil types that are expected to be exposed during construction in areas of the project that will drain to chemical treatment systems. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent you have this information prior to construction;

b. A listing of all treatment chemicals to be used at the site and why the selection of these chemicals is suited to the soil characteristics of your site;

c. If DEQ authorized you to use cationic treatment chemicals for sediment control, include the specific controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a discharge that does not meet WQS;

d. The dosage of all treatment chemicals to be used at the site or the methodology to be used to determine dosage;

e. Information from any applicable Safety Data Sheets (SDS);

f. Schematic drawings of any chemically enhanced storm water controls or chemical treatment systems to be used for application of the treatment chemicals;

g. A description of how chemicals will be stored consistent with Section

2.2.13.C;

h. References to applicable state or local requirements affecting the use of treatment chemicals, and copies of applicable manufacturer's specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and

i. A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at your site.

vi. Stabilization Measures (See Section 2.2.14). You must include the following:

a. The specific vegetative and/or non-vegetative practices that will be used;

b. The stabilization deadline that will be met in accordance with Section 2.2.14.A.i-iii;

c. If complying with the deadlines for sites in arid, semi-arid, or drought stricken areas, the beginning and ending dates of the seasonally dry period (as defined in Appendix A) and the schedule you will follow for initiating and completing vegetative stabilization; and

d. If complying with deadlines for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization.

vii. Spill Prevention and Response Procedures (See Section 1.3.5 and Section 2.3). You must include the following:

a. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employees responsible for detection and response of spills or leaks; and

b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Section 2.3.6 and established under either 40 CFR 110, 117, or 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available to all employees.

You may also reference the existence of Spill Prevention, Control, and Countermeasures (SPCC) plans developed for the construction activity under Section 311 of the CWA, or spill control programs otherwise

required by an NPDES permit for the construction activity, provided that you keep a copy of that other plan onsite.[61]

viii. Waste Management Procedures (See Section 2.3.3). Describe the procedures you will follow for handling, storing, and disposing of all wastes generated at your site consistent with all applicable federal, state, tribal, and local requirements, including clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

ix. Application of Fertilizers (See Section 2.3.5). Document any departures from the manufacturer's specifications where appropriate.

Section 7.2.6.B.i requires operators to document their compliance with respect to the buffer requirements in Section 2.2.1 and Appendix E of the permit. Such documentation will provide inspectors with verification that the operator has complied with the permit's buffer and/or equivalent sediment controls compliance activities.

Section 7.2.6.B.ii requires operators to document their compliance with the linear construction site exception for perimeter controls. This requirement corresponds to the Section 7.2.10.1.d from the 2012 CGP (storm water control measures to be used during construction activity) and also documents in the SWPPP the maintenance requirement from Section 2.1.2.2.B from the 2012 CGP for removing sediment before it has accumulated to one-half of the above ground height of any perimeter control.

Section 7.2.6.B.iii ensures proper documentation regarding the controls that will be implemented to remove sediment prior to vehicle exits and demonstrate the operator's ability to comply with the Section 2.2.4.B and C requirements. This requirement corresponds to Section 7.2.10.1.d from the 2012 CGP.

Section 7.2.6.B.iv ensures documentation when it is infeasible to utilize outlet structures required in Section 2.2.12 for withdrawing water from sediment basins. This requirement corresponds to Section 2.1.3.2 from the 2012 EPA CGP and requires SWPPP documentation for when this requirement is infeasible.

The requirements in Section 7.2.6.B.v ensure proper documentation regarding the use of chemicals at permitted sites, and a demonstration of the operator's ability to comply with the Section 2.2.13 requirements. For Section 7.2.6.B.v, information on soils may be obtained at http://websoilsurvey.nrcs.usda.gov/app. This requirement corresponds to Section 7.2.10.2 from the 2012 EPA CGP.

The requirements in Section 7.2.6.B.vi provide greater specificity regarding the use of vegetative and/or non-vegetative controls, and the use of such controls for both temporary and final stabilization. DEQ includes such specificity so that documentation in the SWPPP corresponds to the permit requirements for stabilization in Section 2.2.14 of the CGP. The requirements in

[61] Even if you already have an SPCC or other spill prevention plan in existence, your plans will only be considered adequate if they meet all of the requirements of this Section, either as part of your existing plan or supplemented as part of the SWPPP.

Section 7.2.6.B.vi will provide the operator the opportunity to support its compliance with the stabilization requirements in Section 2.2.14 of the CGP in the SWPPP. Such documentation will also provide inspectors with verification that the operator has complied with the permit's stabilization requirements. This requirement corresponds to Section 7.2.10.3 from the 2012 EPA CGP.

DEQ notes that it has included a definition in Appendix A for what the permit considers to be the "seasonally dry period" for arid, semi-arid, and drought stricken areas.

The requirements in Section 7.2.6.B.vii provide the operator an opportunity to develop a response plan for preventing spills from occurring and, if they do occur, a plan for responding to them in order to minimize the potential discharge of any pollutants from the site. The documentation in the SWPPP of spill prevention and response procedures also will demonstrate to inspectors the operator's compliance with the spill prevention and response requirements of the Pollution Prevention procedures in Section 2.3 of the permit. This corresponds to Section 7.2.11.1 from the 2012 EPA CGP.

The requirement in section 7.2.6.B.viii will allow operators the opportunity to develop procedures for waste management, and provide documentation to inspectors demonstrating compliance with the pollution prevention requirements relating to the management of construction wastes.

The requirement in Section 7.2.6.B.ix ensures documentation in the SWPPP when the operator applies fertilizers at a rate, in an amount, at a time or in another manner that is a departure from the manufacturer specifications. This may be necessary in some limited circumstances, and Section 7.2.6.B.ix requires the operator to document these departures from manufacturer's specifications.

Section 7.2.7 requires SWPPP documentation of the procedures that will be employed to meet the permit's inspection, maintenance, and corrective action requirements.

7. Procedures for Inspection, Maintenance, and Corrective Action.

   Describe the procedures you will follow for maintaining your storm water controls, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Section 2.1.4, Section 3.3, and Section 5 of this permit. Also include:

   A. The inspection schedule you will follow, which is based on whether your site is subject to Section 4.2 or Section 4.3, or whether your site qualifies for any of the reduced inspection frequencies in Section 4.4;

   B. If you will be conducting inspections in accordance with the inspection schedule in Section 4.2.2, Section 4.3, or Section 4.4.1b, the location of the rain gauge or the address of the weather station you will be using to obtain rainfall data;

   C. If you will be reducing your inspection frequency in accordance with Section 4.4.1b, the beginning and ending dates of the seasonally defined arid period for your area or the valid period of drought;

   D. If you will be reducing your inspection frequency in accordance with Section 4.4.3, the

beginning and ending dates of frozen conditions on your site; and

E. Any maintenance or inspection checklists or other forms that will be used.

The requirement in Section 7.2.7 will allow operators the opportunity to develop and document their procedures for inspections, maintenance activities, and corrective actions, and allow operators to demonstrate their compliance with the permit requirements corresponding to this documentation.

Section 7.2.8 requires operators to provide in the SWPPP documentation for compliance with other requirements. These other requirements include the Threatened and Endangered Species Protection Act documentation and the Safe Drinking Water Act Underground Injection Control documentation.

8. Compliance with Other Requirements.

   A. Threatened and Endangered Species Protection. Include documentation required in Appendix C supporting your eligibility with regard to the protection of threatened and endangered species and designated critical habitat.

   B. Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Storm water Controls. If you are using any of the following storm water controls at your site, document any contact you have had with EPA or the applicable state agency[62] responsible for implementing the requirements for underground injection wells in the safe drinking water Act and EPA's implementing regulations at 40 CFR 144-147. Such controls would generally be considered Class V UIC wells:

      i. Infiltration trenches (if storm water is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);

      ii. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate storm water flow; and

      iii. Drywells, seepage pits, or improved sinkholes (if storm water is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).

The permit requires documentation with regard to endangered species in section 7.2.8.A to document the operator's compliance with Appendix C of the permit, and to provide anyone who inspects the SWPPP the opportunity to review such compliance.

Section 7.2.8.B specifies what UIC documentation must be kept within the SWPPP. The permit requires documentation with regard to underground injection wells in Section 7.2.8.C to make operators aware of and to provide operators the opportunity to document their compliance with the Safe Drinking Water Act requirements for underground injection wells. For Idaho UIC

[62] For state UIC program contacts, refer to the following EPA website: https://www.epa.gov/uic.

contacts, refer to the Idaho Department of Water Resources website (https://idwr.idaho.gov/wells/injection-wells/).

Section 7.2.9 establishes the certification requirements for the SWPPP.

> 9. SWPPP Certification. You must sign and date your SWPPP in accordance with Section 9.1.11.

This requirement is consistent with standard IPDES permit conditions described in IDAPA 58.01.25.090 and is intended to ensure that the operator understands their responsibility to create and maintain a complete and accurate SWPPP. Operators must appoint an authorized representative consistent with the regulations. Therefore, if a facility feels it is more appropriate for a member of the storm water team to sign the documentation, that option is available under the permit. The signature requirements include an acknowledgment that there are significant penalties for submitting false information.

Section 7.2.10 specifies the documents that must be included in the SWPPP following authorization to discharge.

> 10. Post Authorization Additions to the SWPPP. Once you are authorized for coverage under this permit, you must include the following documents as part of your SWPPP:
>
> A. A copy of your NOI submitted to DEQ along with any correspondence exchanged between you and DEQ related to coverage under this permit;
>
> B. A copy of the Authorization Letter you receive from DEQ assigning your IPDES ID (i.e., permit tracking number);
>
> C. A copy of this permit (an electronic copy easily available to the storm water team is also acceptable).

Including these documents in the SWPPP assists facility personnel and DEQ (or other agency) inspectors in determining that the construction site has been authorized for permit coverage.

7.3 On Site Availability of the SWPPP

Section 7.3 instructs the operator on the requirements for retaining the SWPPP on-site.

> You must keep a current copy of your SWPPP at the site or at an easily accessible location so it can be made available at the time of an on-site inspection or upon request by DEQ, EPA, or a local agency approving storm water management plans; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS).[63]

[63] The SWPPP may be prepared, signed, and kept electronically, rather than in paper form, if the records are:

- In a format that can be read in a similar manner as a paper record;
- Legally dependable with no less evidentiary value than their paper equivalent;

If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site.

Section 7.3 requires operators to retain copies of their SWPPP on site, and to make the document available to DEQ or EPA or the Services immediately upon request. If a member of the public wishes to have access to the non-CBI portions of the operator's SWPPP, they must first contact DEQ. DEQ may require that a copy be sent to DEQ so that it can be provided to the requestor. The mechanism for providing DEQ with a copy of the SWPPP is at the discretion of the operator (e.g., web based, hard copy), though DEQ encourages that SWPPPs be provided electronically.

DEQ has clarified in a footnote in 7.3 that the SWPPP may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the SWPPP can be accessed and read in the same way as paper, the permit requires that the SWPPP be:

- In a format that can be read in a similar manner as a paper record;
- Legally dependable with no less evidentiary value than their paper equivalent;
- Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

7.4 SWPPP Modifications

Section 7.4.1 lists the conditions requiring the SWPPP to be modified.

1. You must modify your SWPPP, including the site maps, within seven days of any of the following conditions:
   A. Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, storm water controls, or other activities at your site that are no longer accurately reflected in your SWPPP. This includes changes made in response to corrective actions triggered under Section 5. You do not need to modify your SWPPP if the estimated dates in Section 7.2.3.F change during the course of construction;
   B. To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
   C. If inspections or investigations by DEQ or its authorized representatives determine that SWPPP modifications are necessary for compliance with this permit;
   D. Where DEQ determines it is necessary to install and/or implement additional controls at your site in order to meet the requirements of this permit, the following must be included

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- Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

For additional guidance on the proper practices to follow for the electronic retention of inspection report records, refer to the Fact Sheet discussion related to Section 4.7.3.

in your SWPPP:

i. A copy of any correspondence describing such measures and requirements; and

ii. A description of the controls that will be used to meet such requirements;

E. To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the storm water controls implemented at the site; and

F. If applicable, if a change in chemical treatment systems or chemically enhanced storm water control is made, including use of a different treatment chemical, different dosage rate, or different area of application.

The requirement in Section 7.4.1 to maintain a modified SWPPP under any of the conditions listed provides assurance that the SWPPP will be updated to accurately reflect the conditions on the construction site. It is important that the SWPPP be accurate in terms of changes to construction plans, storm water controls, changes in operational control, and other important changes on the site, so that the facility personnel have access to a SWPPP that is current, and so that inspectors are provided with accurate site information for compliance purposes.

The requirement that any SPWPP revisions be completed within 7 days ensures that any necessary revisions made to the SWPPP are incorporated in a timely manner so that the SWPPP is kept up to date.

Section 7.4.2 requires the operator to maintain a record of all SWPPP modifications.

2. You must maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Section 7.2.9) and a brief summary of all changes.

The requirement to maintain a record of all SWPPP modifications is to ensure that a record of all of the changes to the SWPPP is kept. Keeping a record of such changes will help facility personnel to stay current with the changes that have been made to the SWPPP, and will allow inspectors to determine if appropriate modifications were made to the SWPPP.

Section 7.4.3 establishes the certification requirements for SWPPP modifications.

3. All modifications to the SWPPP consistent with Section 7.4 must be authorized by a person identified in Section 9.1.11.B.

The requirement that the SWPPP and all modifications be authorized by a person identified in Section 9.1.11.B is consistent with standard IPDES permit conditions described in IDAPA 58.01.25.090 and is intended to ensure that the operator certifies any SWPPP modifications. As described in the fact sheet for Section 7.2.10, operators are allowed to appoint an authorized representative consistent with the rules. Therefore, if an operator thinks it is more appropriate for a member of the storm water team to sign the documentation, that option is available under the permit. The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

Section 7.4.4 specifies the notice requirement for other operators when the SWPPP is modified.

4. Upon determining that that a modification to your SWPPP is required, if there are multiple operators covered under this permit, you must immediately notify any operators who may be impacted by the change to the SWPPP.

The requirement in Section 7.4.4 ensures that any other operators covered under the permit are kept up to date on the SWPPP so that they can act consistently with the modifications to the pollution prevention plan and ultimately comply with the permit.

8. Terminating Coverage

Section 8 details the requirements that must be met before an operator of a construction project may be authorized to terminate coverage under the permit. Section 8 reminds the operator that until permit coverage is terminated, the operator must comply with all conditions and effluent limits in the permit. Permit coverage is not terminated until DEQ has received a complete and accurate NOT, certifying that the requirements for termination in Section 8 are met.

8.1 Minimum Information Required in NOT

Section 8.1 lists the minimum information that must be provided in the NOT.

1. IPDES ID (i.e., permit tracking number) provided by DEQ when you received coverage under this permit;
2. Basis for submission of the NOT (See Section 8.2);
3. Operator contact information;
4. Name of site and address (or a description of location if no street address is available);
5. Monitoring Report; and
6. NOT Certification.

The requirements in Section 8.1 inform operators of the information that must be included in their NOT. The required information facilitates prompt processing of NOTs and provides assurance that operators have a valid basis for terminating.

8.2 Conditions for Terminating Permit Coverage

Section 8.2 describes the triggering conditions for terminating permit coverage.

1. You must terminate CGP coverage only if one or more of the conditions in Sections 8.2 have occurred. Until your termination is effective per Section 8.5, you must continue to comply with the conditions of this permit.
2. You have completed all construction activities at your site and, if applicable, construction support activities covered by this permit (See Section 1.2.1.C), and you have met all of the following requirements:
   A. For any areas that (1) were disturbed during construction, (2) are not covered by permanent structures, and (3) over which you had control during the construction activities, you have met the requirements for final vegetative or non-vegetative

stabilization in Section 2.2.14.C. To document that you have met these stabilization requirements, you must take photographs that clearly show your compliance with the Section 2.2.14 stabilization requirements and that are representative of the stabilized areas of your site, and submit them with your NOT;

B. You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long term use following your termination of permit coverage;

C. You have removed all storm water controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable; and

D. You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long term use following your termination of permit coverage; or

3. You have transferred control of all areas of the site for which you are responsible under this permit or another operator, and that operator has submitted an NOI and obtained coverage under this permit; or

4. You have obtained coverage under an individual or alternative general IPDES permit.

The requirements in Section 8.2 provide operators a list of all of the conditions for terminating permit coverage. These conditions must be satisfied before an NOT can be filed and permit coverage terminated. DEQ notes that the conditions for terminating permit coverage in Section 8.2 are the same as in Section 8.2 of the 2017 EPA CGP.

The permit adds a new requirement in Section 8.2.1.A requiring operators to take and submit photos showing the stabilized areas of the site as part of the NOT. DEQ includes this requirement as an additional level of reassurance that permittees are complying with the stabilization requirements prior to terminating coverage. DEQ is aware of a significant number of instances when operators prematurely terminate coverage before the site is properly stabilized. Given the importance of stabilization to preventing continuing erosion and sedimentation, DEQ views the additional photo documentation to be a relatively easy way for the permittee to demonstrate that it has complied with the permit's final stabilization requirements.

8.3 How to Submit your NOT

Section 8.3 describes the process for submitting a Notice of Termination.

You must use the IPDES E-Permitting System to electronically prepare and submit an NOT for the 2022 CGP. To access the IPDES E-Permitting System, go to https://www2.deq.idaho.gov/water/ipdes.

Waivers from electronic reporting may be granted as specified in Section 1.4.2. If DEQ grants you approval to use a paper NOT, and you elect to use it, you must complete the form in Appendix H.

In Section 8.3, DEQ requires that operators file an electronic NOT to notify DEQ that it has met the conditions for terminating permit coverage under Section 8.2. A paper NOT form is included in Appendix H that operators may submit if the operator requests a waiver from electronic reporting as specified in Section 1.4.1 and DEQ grants approval.

8.4 Deadlines for Submitting NOTs

Section 8.4 provides the operator with a deadline for when the NOT must be submitted following the occurrence of any of the triggering conditions in Section 8.2.

> You must submit an NOT within 30 calendar days after any one of the conditions in Section 8.2 occurs.

The purpose of requiring a deadline for filing an NOT is to ensure that operators do not remain covered under the CGP for a long period of time after reaching and satisfying the conditions for permit termination.

8.5 Effective Date of Termination of Coverage

Section 8.5 specifies to operators when their permit termination will become effective and therefore when they will no longer be responsible for complying with the permit.

> Your authorization to discharge under this permit terminates when DEQ sends you notice that your coverage is terminated.

If DEQ determines that the NOT is incomplete or the operator has not satisfied one or more of the conditions in Section 8.2 for being able to submit a NOT, then the NOT will not be valid, and the operator must continue to comply with the conditions of the permit. DEQ will notify operators when DEQ determines that their NOT is complete and accurate and that permit coverage is terminated.

9. Standard Permit Conditions

Section 9 includes the standard IPDES permit conditions consistent with IDAPA 58.01.25.300. No significant changes were made to the standard permit conditions, however they were updated to reflect IDAPA rules rather than 40 CFR 122.41.

Section 9 contains a requirement that any person signing documents in accordance with Section 9.11.1 or 9.11.2 in accordance with the permit must include the certification statement available in Section 9.11.4.

DEQ included a minor change to Section 9.1.11.2 to specifically reference the corrective action log as being subject to this particular signatory requirement. This reflects the modifications to Section 5.4 that shift the requirement to complete corrective action reports to instead require the maintenance of a corrective action log.

V. Permit Appendices

A. Definitions and Acronyms

Appendix A of the permit includes definitions of terms and a list of acronyms used throughout the permit.

B. Small Construction Waivers and Instructions

Appendix B provides information to construction operators on the availability of permit waivers for rainfall erosivity, TMDLs, and equivalent analysis.

C. Eligibility Procedures Relating to Threatened and Endangered Species Protection

Appendix C specifies the eligibility criteria related to the protection of endangered and threatened species and critical habitat. Each operator must certify that they have met one of the 6 eligibility criteria.

Operators who cannot certify to one of the endangered species eligibility criteria are not eligible to submit an NOI to gain coverage under the CGP, instead they must apply to DEQ for an individual permit.

DEQ will request comments from the Services (National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) for the reissuance of the CGP. Based on the results of comments received from the Services, DEQ may include additional or altered conditions to the 2022 CGP. Appendix C contains a four step process that must be followed for determining whether an operator is eligible for permit coverage, prior to submittal of the NOI. In order to become eligible for this permit, each operator must determine its compliance with one of six criteria (A-F). if operators cannot determine if they meet one of the eligibility criteria related to NMFS Listed Resources of Concern, the operator may consider applying to DEQ for an individual IPDES permit. Some applicants may need to consult with the services prior to submitting their NOI.

Appendix C contains the eligibility language for determining which criterion operators may meet to ensure eligibility under the ESA related provisions of the permit. Operators have an independent ESA obligation to ensure that any of their activities do not result in prohibited "take" of listed species. Section 9 of the ESA prohibits any person from "taking" a listed species, e.g., harassing or harming it, with limited exceptions. This prohibition generally applies to "any person," including private individuals, businesses, and government entities. Many of the requirements and procedures in the CGP to protect species may also assist operators in ensuring that their construction activities do not result in a prohibited take of species in violation of section 9 of the ESA. Operators who intend to undertake construction activities in areas that harbor endangered and threatened species may seek protection from potential "take" liability under ESA section 9 either by obtaining an ESA section 10 permit or by requesting coverage under an individual permit and participating in the section 7 consultation process with the appropriate FWS or NMFS office. Operators unsure of what is needed for such liability protection should confer with the appropriate services.

DEQ updated the informational weblinks to the FWS and NMFS to help evaluate for the presence of ESA-listed species and critical habitat and evaluate the potential effects of

construction activities. The permit includes additional text related to the "action area" to provide further information. DEQ also revised the steps in Appendix C to provide clarity for operators to confirm that statements are valid when determining eligibility under the criteria. DEQ has included additional requirements for operators selecting Criterion C to assist the Services. DEQ has also updated Criterion E to add a reference to a conference opinion in addition to the previously referenced biological opinion. DEQ clarified the supporting documents that must be included in the NOI and SWPPP.

D. Buffer Requirements

Appendix D includes requirements and additional guidance for operators on how to establish the 50 foot buffer or satisfy one of the two other compliance alternatives described in section 2.2.1.A, as well as how to qualify for and comply with the exceptions in Section 2.2.1.B.

Appendix D provides information to assist operators in complying with section 2.2.1. This appendix was developed for the permit to help implement the C&D rule at 40 CFR 450.21(a)(6) to "provide and maintain natural buffers around waters of the United States…unless infeasible." In an effort to streamline the permit, much of the language on the buffer requirements from Section 2.1.2.1 of the 2012 EPA CGP was moved to Appendix D of the 2022 permit.

E. 2-Year, 24-Hour Storm Frequencies

Appendix E provides a guide to operators to determine the volume of precipitation associated with their local 2-year, 24-hour storm event for operators who elect to provide storage for the calculated volume of discharge from a 2-year, 24-hour storm.

F. NOI Form and Instructions

Section 1.4.1 requires operators to use DEQ's IPDES E-Reporting System to prepare and submit NOIs. However, where an operator requests and receives approval from DEQ, the operator will likely be authorized to use the paper NOI form in Appendix F.

DEQ has changed the NOI form compared to the 2017 EPA CGP version. Each of the changes made and reasoning for the changes are described below.

DEQ has added a request for applicants to provide the IPDES ID numbers for any co-located projects. This question allows DEQ to understand how many projects are covering the same area and to schedule inspections appropriately for a site.

DEQ has added a question asking operators if they will be discharging dewatering water during the course of their permit coverage. DEQ added this question to understand how prevalent dewatering discharges are at permitted sites.

DEQ has removed the historic property screening process. Those requirements apply to federal undertaking actions. State permits issued by an approved state NPDES program under the Clean Water Act do not meet the definition of a federal undertaking. *Historic Green Springs, Inc. v. EPA*, 742 F.Supp2d 837 (Fourth Cir. 2010).

G. NOT Form and Instructions

Section 8.3 requires the operator to use DEQ's IPDES E-Reporting System to prepare and submit the NOT when any of the conditions in Section 8.2 have been met. However, where DEQ specifically authorizes the operator to use a paper NOT form, the operator must complete and submit the paper form included in Appendix G.

Appendix G also provides potential operators with an idea of what types of questions to anticipate when completing the NOT. The NOT form includes modified reasons for termination. These modifications were considered reasonably necessary to reflect the changes made to the conditions for terminating permit coverage in Section 8.2.

Related to the new requirement in Section 8.2.1.A, DEQ is adding a checkbox to the NOT form to confirm that the operator has attached photographs that document compliance with the permit's final stabilization requirements.

H. Suggested Format for Request for Chemical Treatment

Section 1.1.9 requires operators to notify the applicable DEQ Regional Office in advance of submitting an NOI if the operator plans to add "cationic treatment chemicals" (as defined in Appendix A) to storm water and/or authorized non-storm water prior to discharge. The DEQ Regional Office will likely authorize coverage under the permit after the operator has included appropriate controls and implementation procedures designed to ensure that its use of cationic treatment chemicals will not lead to an exceedance of water quality standards.

Appendix H provides a suggested format for notifying the operator's applicable DEQ Regional Office about its intended use of cationic treatment chemicals. The addition of Appendix I to the permit is to help operators in providing the required information to their Regional Office in order to become eligible for permit coverage under Section 1.1.9.

I. Suggested Format for Monitoring Reports

Sites that conduct any required turbidity or pH monitoring during the permit term must report the results of that monitoring along with their Notice of Termination. DEQ has provided this suggested format in order for permittees to easily submit their data.

APPENDIX A. Public Comment and Response to Comments

This will be completed after the public comment period closes.