National Pollutant Discharge Elimination System

General Permit Fact Sheet for

Hawaii Administrative Rules (HAR) Chapter 11-55, Appendix C

Authorizing Discharges of Storm Water Associated with Construction Activity

(1) A brief description of the type of facility or activity which is the subject of the draft permit.

This general permit covers storm water discharges associated with construction activities, and on or off-site construction support activities that result in the disturbance of one acre or more of total land area. This general permit also covers activities, disturbing less than one acre of land area, that are part of a larger common plan with cumulative activities disturbing one acre or more of total land area.

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

Storm water discharges include storm water runoff, snowmelt runoff, and surface runoff and drainage that are associated with construction activities, and on or off-site construction support activities.

(3) For a PSD permit, the degree of increment consumption expected to result from operation of the facility or activity.

Not applicable.

(4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by 40 CFR §124.9 (for EPA-issued permits). Language that is added to the 2019 Appendix C is shown as underlined and red-colored text, and language that is deleted is shown as [~~bracketed and strikethrough black-colored text~~].

Chapter 11-55, Appendix C Revisions

The General Permit is divided into the following sections. Sections that are revised are shown as underlined and red-colored text.

1. *Coverage under this General Permit*
2. *Limitations on Coverage under this General Permit*
3. *Term of this General Permit and the Notice of General Permit Coverage*
4. *Standard Conditions*
5. *Effluent Limitations Applicable to all Discharges from Construction Sites*
6. *Water Quality-Based Effluent Limitations*
7. *Storm Water Pollution Prevention Plan (SWPPP)*
8. *Implementation of the Storm Water Pollution Prevention Plan (SWPPP)*
9. *Inspections*
10. *Corrective Actions*
11. *Notice of Intent (NOI) Requirements*
12. *Reporting Requirements*
13. *Submittal Requirements*
14. *Additional Conditions*
15. *Record Retention*
16. *Falsifying Report*
17. *Administrative Extension*

The proposed major revisions include:

- *Adding general permit coverage for eligible storm water discharges from snowmelt runoff at sites with ongoing construction activities. Specifically, additional site inspection requirements are proposed to account for runoff due to the discharge of snowmelt after a storm event that produces 3.25 inches or more of snow within a 24-hour period. There are also additional requirements to reduce the site inspection frequency due to frozen conditions. All proposed requirements for snowmelt runoff are as stringent as the equivalent provisions that are specified in the current version of the U.S. Environmental Protection Agency Construction General Permit (2022 EPA CGP).*
- *Strengthening the linkage between the types of pollution prevention control needed and the volume of pollutants, including petroleum products and other chemicals, that are stored, handled, and disposed at a construction site. Specifically, storage requirements, containment controls, and spill procedures are proposed for pollutants based on their volumes. It is proposed to use the nominal volume of most industrial barrels (i.e., 55 gallons) as the volume threshold for determining the types of control. This volume threshold is also specified in the 2022 EPA CGP.*
- *Streamlining the documentation of problems found on the construction site and the corresponding corrective actions taken. Specifically, the current requirements for completing a corrective action report are proposed to be*

replaced by new requirements for updating a corrective action log. It is proposed to document on the log the same information that is currently found on a report. It is also proposed to ensure the certification, format, availability, and retention of a corrective action log. The proposed requirements for the corrective action log are identical to the provisions in the 2022 EPA CGP.

- *Clarifying the renewal process of a Notice of General Permit Coverage (NGPC). Prior to the expiration date of the current general permit, permittees do not know the requirements of the new general permit, and therefore, permittees cannot request for a renewal when they do not know if compliance with the new general permit is possible. It is proposed to revise the renewal process of a NGPC, and to clarify the requirements of the administrative extension process.*
- *Maintaining uniformity with the requirements for meeting water quality standards (WQS), as specified in HAR Chapter 11-54. Specifically, references to the reasonable potential approach are proposed to be removed from the general permit. It is proposed to make clear that discharges not meeting WQS are prohibited, and permittees must ensure discharges do not lower water quality in the receiving state waters.*

The proposed minor revisions include:

- *Maintaining conformity of commonly used terms such as "storm water control", "receiving state water", "site drainage feature", "permittee", and "operator".*
- *Clarifying unclear terms, incorrect references, and incomplete notes.*

The Clean Water Branch (CWB) conducted a Public Comment period on the proposed revisions to HAR Chapter 11-55 including the general permits specified in Appendices C, J, and L, from May 19, 2023, through June 23, 2023. The CWB contacted approximately 1,750 permittees, including consultants, small businesses, and government agencies, to inform them of the proposed revisions and to solicit their comments.

A total of two (2) commenters from state and municipal agencies submitted input about the proposed revisions to Appendices C, J, and L of HAR Chapter 11-55. On July 12, 2023, the CWB finalized and issued the Response to Comments about the proposed revisions to HAR Chapter 11-55. The CWB also updated the Fact Sheets of Appendices C, J, and L to include the additional proposed revisions in response to the comments submitted.

*For Appendix C of HAR Chapter 11-55, the additional proposed revisions are minor in nature; they are shown as **underlined and red-colored bolded text**, and they include:*

- *Clarifying the requirements of routine maintenance. It is proposed to make clear that permittees need to complete inspection reports when it is infeasible to complete routine maintenance in a timely manner.*
- *Clarifying the signature requirements of forms, reports, and documents. It is proposed to make clear that approved electronic signatures can be used for the submission of permit documents.*

Revised Section 1.1

1.1.

This general permit covers [~~discharges composed entirely of storm water runoff~~]storm water discharges, including storm water runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activities, including, but not limited to, clearing, grading, excavation, and construction support activities that result in the disturbance of one acre or more of total land area. This general permit also covers activities that disturb 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 one acre or more of total land area.

Construction support activities include, but are not limited to, concrete or asphalt batch plants, rock crushing plants, equipment staging yards/areas, material storage areas, excavated material disposal areas, borrow areas, etc. Coverage under this general permit for construction support activities is allowed provided that the support activity is directly related to the construction [~~site~~]project required to have permit coverage for storm water discharges; is not a commercial operation, nor does it serve multiple unrelated construction projects; does not continue to operate beyond the completion of the construction activity at the project site it supports; and storm water controls are implemented in accordance with [~~this section~~]section 5 and if applicable, section 6, for storm water discharges from the support activity areas.

***Rationale:** Section 1.1 of the general permit specifies the types of storm water discharges from construction activities that are eligible for general permit coverage. This revision is proposed to include general permit coverage for storm water discharges from snowmelt runoff. Snowmelt runoffs are included in the current version of the U.S. Environmental Protection Agency (EPA) CGP that provides coverage for eligible storm water discharges from construction activities undertaken at locations where the EPA is the NPDES permitting authority. All proposed requirements for snowmelt runoffs are as stringent as the equivalent*

provisions specified in the 2022 EPA CGP. The 2022 EPA CGP can be accessed at: https://www.epa.gov/npdes/2022-construction-general-permit-cgp#2022cgp.

This revision is also proposed to clarify the requirements for storm water discharges from the support activity areas. Specifically, storm water controls must be implemented in accordance with section 5 of the general permit, and if applicable, section 6 of the general permit for eligible discharges from the support activity areas.

Revised Section 2.2

2.2.

Discharges of storm water from new sources that [~~have the reasonable potential to cause, or contribute to an excursion above any~~]do not meet applicable water quality standard are not eligible for coverage under this permit, except if the permittee has included appropriate controls and implementation procedures designed to bring the discharge into compliance with water quality standards. In the absence of information demonstrating otherwise, the department expects that compliance with the storm water control requirements in this permit, including the requirements applicable to such discharges in section 6.2., will result in discharges that [~~will not cause, have the reasonable potential to cause, or contribute to an excursion above any~~]meet applicable water quality [~~standard.~~]standards.

For this permit "new sources" means projects which occur after this general permit becomes effective when section 11-55-34.02(b)(2) becomes effective, ten days after filing with the office of the lieutenant governor.

***Rationale:** The requirements in section 2.2 of the general permit are applicable to new sources, and they prohibit discharges that do not meet the instream water quality standards of receiving state waters. Currently, the general permit references the reasonable potential approach to prohibit all "discharges that have the reasonable potential to cause, or contribute to an excursion above any applicable quality standards." There are also water quality-based requirements in section 6.2 of the general permit that are applicable to existing sources, as well as new sources. The water quality-based requirements are specified to prohibit all discharges from all permittees that do not meet applicable water quality standards.*

This revision is proposed to maintain uniformity in the requirements for water quality standards, as specified in Hawaii Administrative Rules, Chapter 11-54 (HAR Chapter 11-54) and the general permit by removing references to the reasonable potential approach. This revision requires permittees to comply with specific requirements in the general permit, which are intended to ensure that their discharges meet applicable water quality standards in the receiving state waters. Specifically, this revision makes clear to permittees their requirements for complying with applicable water quality standards, and provides assurance that their discharges will not lead to a lowering of water quality in the receiving state waters. It is also proposed to revise sections 6.1 and 8.1 to maintain uniformity by removing references to the reasonable potential approach.

Revised Section 3.2 & Revised Section 3.3

3.2. Term of the Notice of General Permit Coverage

[~~A notice of general permit coverage under this general permit expires, the earlier of the following, unless the notice of general permit coverage is automatically terminated in accordance with section 2.3 or administratively extended under section 11-55-34.09(d):~~]

[~~3.2.1.~~

~~As specified on Page 55-C-1; or~~]

[~~3.2.2.~~

~~When the notice of general permit coverage specifies.~~]
Unless otherwise specified on the notice of general permit coverage, a notice of general permit coverage granted under this general permit shall expire five years after the effective date of this general permit, unless it is administratively extended in accordance with section 3.3 of this general permit.

3.3. Administrative Extension of the Notice of General Permit Coverage

If the department is unable to reissue this general permit prior to its expiration, a notice of general permit coverage granted under this general permit shall be automatically administratively extended, unless otherwise specified on the notice of general permit coverage. This administrative extension shall expire sixty days after the effective date of the new general permit unless:

3.3.1.

A notice of intent for coverage under the new general permit is submitted within sixty days after the effective date of the new general permit. The administrative extension shall expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;

3.3.2.

An application for a NPDES individual permit is submitted within sixty days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the NPDES individual permit authorizing the existing discharge; or

3.3.3.

A notice of cessation is submitted where the administrative extension shall expire on the date that the discharge ceased.

Rationale: *Section 3.2 of the general permit specifies the term of the general permit and a Notice of General Permit Coverage (NGPC) that is issued under the general permit. This revision is proposed to clarify that a NGPC granted under this general permit shall expire five years after the effective date of the general permit, unless it is administratively extended. This revision is also proposed to clarify the administrative extension process of a NGPC issued under the general permit.*

Currently, to maintain coverage under this general permit in instances where the general permit is going to expire prior to its reissuance, permittees need to submit a renewal NOI prior to the general permit's expiration date. This procedure creates a situation where a permittee is required to submit an NOI to request coverage under the reissued general permit prior to the reissued permit being finalized and adopted. In essence, permittees are required to submit an NOI to apply for coverage under a general permit that has not been finalized, or at worst, has not had a draft public noticed yet, and therefore, permittees are not even aware of the requirements of the new general permit.

To avoid this situation, the renewal process for general permit coverage is revised. This revision specifies that when the department is unable to reissue the general permit prior to its expiration, NGPCs granted under the general

permit prior to its expiration are administratively extended until 60 days after effective date of the reissued general permit, unless one of 3 actions are taken by the permittee. In the new process, permittees would have 60 days to submit an NOI to request coverage under the reissued general permit, before their administrative extension expires. This will allow permittees to determine if they are able to comply with the new general permit and provide any newly required information in the NOI to request coverage under the reissued general permit.

Revised Section 5 (Note)

5. Effluent [~~Limitation~~]Limitations Applicable To All Discharges From Construction Sites

The permittee is required to comply with the following effluent limitations in this section for authorized discharges from the site and/or from construction support activities.

~~[Note: If the project is an "existing project" meaning that an administrative extension of the NGPC was granted or the NGPC was renewed under this general permit; or if the permittee is new because of a transfer of ownership and/or operation replaces the permittee of an already issued NGPC, and it is infeasible for the permittee to comply with a specific requirement in this section because (1) the requirement was not part of the 2007 Appendix C, and (2) because the permittee is prevented from compliance due to the nature or location of earth disturbances that commenced prior to December 6, 2013, or because the permittee is unable to comply with the requirement due to the manner in which storm water controls have already been installed or were already designed prior to December 6, 2013, the permittee is required to document this fact in the SWPPP, refer to section 7, and are waived from complying with that requirement. This flexibility applies only to the requirements in sections 5.1 and 5.3.3. through 5.3.5. (except for sections 5.3.3.1., 5.3.3.2.2., 5.3.3.3.3.a., and 5.3.3.4.). This only applies to those portions of the site that have already commenced earth-disturbing activities or where storm water controls implemented in compliance with the previous permit have already been installed.]~~

Rationale: *Section 5 of the general permit requires all permittees to comply with effluent limitations for authorized discharges from both the site and the construction support activities. This revision is proposed to delete the note clarifying when it is infeasible for a permittee to comply with any requirement specified in section 5 of the general permit. This clarifying note is no longer*

necessary due to the revision of the renewal process for a NGPC, as proposed in revised section 3 of the general permit.

Revised Section 5.1.1.2

5.1.1.2. Design requirements.

5.1.1.2.1.

The permittee shall account for the following factors in designing storm water [~~controls:~~]controls.

Note: Storm water controls must be designed using the most recent data available to account for recent precipitation patterns and trends.

Note: If the site is exposed to or has previously experienced major storms, such as hurricanes, storm surge, extreme/heavy precipitation, and flood events, the permittee should also include consideration of and contingencies for whether implementing structural improvements, enhanced/resilient storm water controls, and other mitigation measures may help minimize impacts from storm water discharges from such major storm events.

5.1.1.2.1.1.

The expected amount, frequency, intensity, and duration of precipitation;

5.1.1.2.1.2.

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. If any storm water flow will be channelized at the site, the permittee shall design storm water controls to control both peak flowrates and total storm water volume to minimize channel and streambank erosion in the immediate vicinity of discharge points; and

5.1.1.2.1.3.

The range of soil particle sizes expected to be present on the site.

5.1.1.2.2.

The permittee shall direct discharges from storm water controls to vegetated areas of the site, including any natural buffers established under section 5.1.2.1., and maximize [~~stormwater~~]storm water infiltration to reduce pollutant discharges, unless [~~infeasible. Use~~] infiltration would be inadvisable due to the underlying geology and ground water contamination concerns, or infeasible due to site conditions. The permittee shall use velocity dissipation devices if necessary to minimize soil erosion in order to minimize pollutant discharges when directing storm water to vegetated areas.

Rationale: *Section 5.1.1.2 specifies the factors that permittees must account for when designing their storm water controls. This revision is proposed to stress the importance of considering recent precipitation data so that earth-disturbing activities can be planned during periods with a lower risk of precipitation, and so that erosion and sediment controls can be implemented to best manage the expected precipitation. If earth-disturbing activities are planned during periods with a higher risk of precipitation, the permittee should consider implementing appropriate erosion and sediment controls to better manage the expected high precipitation. This revision makes clear that it is a design consideration, and not a design requirement, to plan, on the basis of historical precipitation data, contingency measures or mitigation measures which may help minimize the potential impacts from storm events*

This revision is also proposed to clarify the requirements for effluent limitations that prevent and control the discharge of sediment and other pollutants through the use of erosion control measures. Specifically, permittees should reduce pollutant discharges by maximizing infiltration unless there are geological features preventing the implementation of such erosion control measures, or there are potential risks of contamination to ground water.

Revised Section 5.1.1.4

5.1.1.4. Maintenance Requirements

5.1.1.4.1.

The permittee shall ensure that all erosion and sediment controls required in this section remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

5.1.1.4.2.

The permittee shall inspect all erosion and sediment controls in accordance with the applicable requirements in section 9.1., and document the findings in accordance with section 9.1.7. If a problem is found (e.g., erosion and sediment controls need to be replaced, repaired, or maintained), the permittee shall make the necessary repairs or modifications in accordance with the following schedule:

5.1.1.4.2.1.

Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next work day, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance. If it is infeasible to complete the routine maintenance by the close of the next work day, the permittee shall document in its records why this is the case and why the repair or other upkeep to be performed should still be considered routine maintenance ***in an inspection report under section 9.1.7.1.c.*** *and complete such work* ***no later than seven (7)*** *calendar days from the time of* ***discovery of the condition requiring maintenance****.*

Note: Routine maintenance means minor repairs or other upkeep performed to ensure the site's storm water controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control.

5.1.1.4.2.2.

When installation of a new erosion or sediment control or a significant repair is needed, the permittee shall install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery where feasible. If it is infeasible to complete the installation or repair within 7 calendar days, the permittee shall document in its records why it is infeasible to complete the installation or repair within the 7-day timeframe and document the schedule for installing the storm water control(s) and making it operational as soon as practicable after the 7-day timeframe. Where these actions result in changes to any of the storm water controls or procedures documented in the SWPPP, the permittee shall modify the SWPPP accordingly within 7 calendar days of completing this work.

Rationale: *Section 5.1.1.4 of the general permit requires permittees to inspect and maintain the effectiveness of all erosion and sediment controls during the term of the general permit coverage. There is considerable confusion as to the difference between routine maintenance, and the repair or replacement of a storm water control that is considered a corrective action in accordance with section 10 of the general permit. To remedy this confusion and to improve compliance with the intended meaning of the general permit, this revision defines routine maintenance of storm water controls as minor repairs or other upkeep performed to ensure their effective operating condition. This revision is proposed to clarify that permittees must treat necessary on-site repairs of storm water controls as corrective actions, and not as routine maintenance.*

When repeated routine maintenance fixes are made to the same storm water control, this revision also clarifies that permittees must document their justification for treating these problems as routine maintenance, and not as necessary on-site repairs of a storm water control. If routine maintenance fixes of a storm water control are considered to be necessary on-site repairs, permittees must treat their corrective actions in accordance with section 10 of the general permit.

Revised Section 5.1.2.1

5.1.2.1. *Provide natural buffer and sediment controls*

[~~Provide natural buffers and sediment control. (These requirements only apply when a state water is located within 50 feet of the project's earth disturbances).~~]

Note: These requirements only apply when there are receiving state waters located within 50 feet of the project's earth disturbances.

Note: The department does not consider all storm water [~~control features~~] controls (e.g., [~~storm water conveyance channels,~~] constructed or natural site drainage features, storm drain inlets, sediment basins) to be state waters.

Note: Written documentation allowing use is required from the owner of areas that are not owned by the permittee or that are otherwise outside the operational control to be considered areas of undisturbed natural buffer for purposes of compliance with this section.

[~~The permittee shall ensure that any discharges to state waters through the area between the disturbed portions of the property and any state waters located within 50 feet of the site are treated by an area of undisturbed natural buffer and~~

~~sediment controls.~~]The permittee shall provide and maintain an area of undisturted natural buffer and sediments controls between the disturbed portions of the site and any receiving state waters that are located within 50 feet of the project's earth disturbances.

Note: If the boundary of the disturbance area is within 50 feet of [~~the State~~]any receiving state water, triggering this requirement, then the installation of the project's perimeter control may be considered equivalent to the installation of sediment control.

Rationale: *Section 5.1.2.1 of the general permit specifies the requirements for erosion and sediment controls that are applicable to all construction sites. This revision is proposed to clarify that the requirements only apply to receiving state waters located within 50 feet of earth disturbances found at construction sites.*

Revised Section 5.3.3.3

5.3.3.3. Storage, Handling, and Disposal of Construction Products, Materials, and Wastes.

The permittee shall minimize the exposure to storm water of any of the products, materials, or wastes specified below that are present at the site by complying with the requirements in this section.

Note: These requirements do not apply to those products, materials, or wastes that are not a source of storm water contamination or that are designed to be exposed to storm water.

Note: Compliance with the requirements of this permit does not relieve compliance with respect to federal, state or local requirements for the storage, handling, and disposal of solid, hazardous, or toxic wastes and materials.

To ensure meeting this requirement, the permittee shall:

5.3.3.3.1.

For building products: In storage areas, provide either:

a. Cover (e.g., plastic sheeting or temporary roofs) to prevent these products from coming into contact with rainwater, or

b. A similarly effective means designed to prevent the discharge of pollutants from these areas.

5.3.3.3.2.

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

a. In storage areas, provide either (1) cover (e.g., plastic sheeting or temporary roofs) to prevent these chemicals and materials from coming into contact with rainwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas; and

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

5.3.3.3.3.

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

[~~a.~~ ~~To comply with the prohibition in section 5.3.1.3., store chemicals in water-tight containers, and provide either (1) cover (e.g., plastic sheeting or temporary roofs) to prevent these containers from coming into contact with rainwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., spill kits), or provide secondary containment (e.g., spill berms, decks, spill containment pallets); and~~]

The following requirements apply to the storage and handling of chemicals on the site. If the permittee is already implementing controls as part of an SPCC or other spill prevention plan that meet or exceed the requirements of this section, the permittee may continue to do so and be considered in compliance with these requirements provided the permittee reference the applicable sections of the SPCC or other plans in the SWPP as required in section 7.2.11.1.

5.3.3.3.3.1.

If any chemical container has a storage capacity of less than 55 gallons:

a. *The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;*

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

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

5.3.3.3.3.2.

If any chemical container has a storage capacity of 55 gallons or more:

a. *The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;*

b. *Store containers a minimum of 50 feet from receiving state waters, constructed or natural site drainage features, and storm drain inlets. If infeasible due to site constraints, store containers as far away from these features as the site permits. If site constraints prevent storing containers 50 feet away from receiving state waters or the other features identified, the permittee must document in the SWPPP the specific reasons why the 50-foot setback is infeasible, and how the permittee will store containers as far away as the site permits;*

c. *Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to storm water, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets, double-wall, above-ground storage tank); and*

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

[~~b.~~]5.3.3.3.3.3.

Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the

area down. Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

5.3.3.3.4.

For hazardous or toxic [~~waste:~~]wastes:

Separate hazardous or toxic waste from construction and domestic waste;

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

b. Store all containers that will be stored outside away from [~~surface waters~~] receiving state waters, storm drain inlets, and constructed or natural site drainage features, and within appropriately-sized secondary containment (e.g., spill berms, decks, 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 covered area or having a spill kit available on site);

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

d. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the area down. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.

5.3.3.3.5.

For construction and domestic [~~waste:~~]wastes:

Provide waste containers (e.g., dumpster or trash receptacle) of sufficient size and number to contain construction and domestic wastes. In addition, the permittee shall:

a. For waste containers with lids, keep waste container lids closed when not in use, and close lids at the end of the business day and during storm events;

b. For waste containers without lids, provide either cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or a similarly effective means (e.g., secondary containment) designed to minimize the discharge of pollutants;

[~~a.~~]c. On work days, clean up and dispose of waste in designated waste containers; and

[~~b.~~]d. Clean up immediately if containers overflow[~~.~~], and if there is litter elsewhere on the site from escaped trash.

Note: 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 discarded materials.

5.3.3.3.6.

For sanitary waste:

Position portable toilets so that they are secure and will not be tipped or knocked over[~~.~~], and are located away from receiving state waters, storm drain inlets, and constructed or natural site drainage features.

Rationale: *Section 5.3.3.3 of the general permit requires permittees to comply with specific pollution prevention requirements for activities, including the storage, handling, and disposal of construction products, materials, and wastes, that may result in pollutant discharges. This revision is proposed to make changes to the pollution prevention requirements for diesel fuel, oil, hydraulic fuels, or other petroleum products, and other chemicals based on the volume being used and stored on the site. Specifically, it is proposed to strengthen the linkage between the type of pollution prevention control needed and the volume of the pollutant kept on site.*

Where smaller amounts of chemicals are kept on site, the permittees should be able to move the controls, that are used to prevent and treat a possible spill and leak, around the project site wherever materials are being used or stored. In

such instances, the proposed revision establishes control requirements that are appropriate for smaller-sized containers by requiring that the permittees use water-tight containers, place them on a spill containment pallet (or similar device) if kept outside, and have available at all times a spill kit in good working condition 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 able to be maneuvered more easily around the site.

Where larger amounts of chemicals are present at the site, the proposed revision includes controls that are more geared to the storage of chemical material in a fixed location and that are effective at preventing pollution from a larger spill or leak that could pose a significantly higher risk to the receiving water. Specifically, the proposed revision requires the following for larger volumes of chemicals on site:

- *Use of water-tight containers;*
- *Store containers a minimum of 50 feet from the receiving state waters, drainageways, or storm water inlets;*
- *Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to storm water, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets); and*
- *Have a spill kit available on site 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.*

The department proposes that the volume threshold for determining which types of controls apply is determined by whether or not the amount of oil or other chemicals on site is above or below 55 gallons. This proposed volume threshold is based on the nominal volume of most industrial barrels (i.e., 55 gallons), and it is identical to the volume threshold that is specified in the 2022 EPA CGP for determining if the amount of oil or other chemicals is relatively small or large at a construction site.

This revision is also proposed to make a minor change to the pollution prevention control requirements for construction and domestic wastes, as specified in section 5.3.3.3.5 of the general permit, by clarifying the need to close the lids of waste containers with lids or to provide covers for waste containers without lids. Specifically, it is proposed to require that where waste containers have lids, they must be kept closed at the end of the business day and during storm events. It is also proposed to require that where waste containers have no lids, they must be provided with covers or an effective means to minimize the discharge of pollutants.

Revised Section 5.3.3.4

5.3.3.4. Washing of applicators and containers used for paint, concrete, or other materials.

The permittee shall provide an effective means of eliminating the discharge of water from the washout and cleanout of stucco, paint, concrete, form release oils, curing compounds, and other construction materials. To comply with this requirement, the permittee shall:

5.3.3.4.1.

Direct all washwater into a leak-proof container or leak-proof pit. The container or pit must be designed so that no overflows can occur due to inadequate sizing or precipitation;

5.3.3.4.2.

Handle washout or cleanout wastes as follows:

5.3.3.4.2.1. For liquid wastes

a. Do not dump liquid wastes [~~in storm sewers;~~]or allow them to enter into constructed or natural site drainage features, storm drain inlets, or receiving state waters;

b. [~~Dispose of liquid wastes in accordance with applicable requirements in section 5.3.3.3.; and~~]Do not allow liquid wastes to be disposed of through infiltration or to otherwise be disposed of on the ground;

c. Comply with applicable state or local requirements for the disposal of liquid wastes; and

5.3.3.4.2.2. For solid wastes

[~~c.~~]Remove and dispose of hardened concrete waste consistent with the handling of other construction wastes in section 5.3.3.3.; and

5.3.3.4.3.

Locate any washout or cleanout activities as far away as possible from receiving state waters[~~and storm water inlets or conveyances,~~], constructed or natural site drainage features, and storm drain inlets, and, to the extent practicable, designate areas to be used for these activities and conduct such activities only in these areas.

Rationale: *Section 5.3.3.4 of the general permit requires permittees to comply with specific requirements applicable to the washing of applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials. This revision is proposed to clarify the handling of liquid wastes and solid wastes from washout and cleanout activities. Specifically, permittees cannot allow liquid wastes from entering storm inlets or receiving state waters, and permittees cannot dispose liquid wastes through infiltration.*

Revised Section 6.1 & Revised Section 6.2

6.1. General Effluent limitation to meet applicable water quality standards

[~~The permittee shall not cause or contribute to a violation of the basic water quality criteria~~] Discharges shall be controlled as necessary to meet applicable water quality standards as specified in section 11-54-4.

In the absence of information demonstrating otherwise, the department expects that compliance with the conditions in this permit will result in storm water discharges being controlled as necessary to meet applicable water quality standards. If at any time the permittee becomes aware, or the department determines, that the discharge is not being controlled as necessary to meet applicable water quality standards, the permittee must take corrective action as required in section 10.2.1., and document the corrective actions as required in section 10.2.1. and section 10.4.

The department will also impose additional water quality-based limitations on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if information in the NOI, or from other sources indicates that the discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in a state-established and EPA-approved Total Maximum Daily Load (TMDL).

6.2. [~~Discharge limitations for~~]Water quality-based conditions for sites discharging to impaired state waters

If discharge is to a state water that is impaired for (1) sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or (2) nutrients, including impairments for nitrogen and/or phosphorus, the permittee is required to comply with the requirements in section 6.2.2.

Note: For the purposes of this section, "impaired waters" are waters identified as impaired on the State CWA section 303(d) list, and waters with a state-established and EPA-approved TMDL. The construction site will be considered to discharge to an impaired water if the first state water to which the discharge enters is to a water on the section 303(d) list or one with a state established and EPA-approved TMDL. For discharges that enter a storm water drainage system prior to discharge, the first state water to which discharge is the water body that receives the storm water discharge from the storm water drainage system.

If discharge is to [~~an impaired~~]a state water that is impaired for a parameter other than a sediment-related parameter or nutrients, the department will inform the permittee if any additional limits or controls are necessary for the discharge to be controlled as necessary to meet water quality standards[~~, including for it~~]. These controls might include those necessary for the discharge 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, the department may require the permittee to apply for or obtain coverage under a NPDES individual permit.

If during the coverage under a previous permit, the permittee was required to install and maintain storm water controls specifically to meet the assumptions and requirements of a state-established and EPA-approved TMDL (for any parameter) or to otherwise control the discharge to meet water quality standards, the permittee shall continue to implement such controls as part of this permit.

Rationale: *Section 6.2 of the general permit specifies the requirements for construction sites with discharges to impaired state waters. State waters are identified as impaired when a nutrient-related parameter or a sediment-related parameter exceeds applicable state water quality criteria. This revision is proposed to clarify that the department may require additional limitations, controls or individual permit coverage when a permittee is discharging to an impaired state water. This revision is also proposed to maintain uniformity by removing references to the reasonable potential approach. For more details, see the rationale for the revised section 2.2 of the general permit.*

Revised Section 7.2

7.2. SWPPP Contents

The SWPPP must include the following information, at a minimum.

7.2.1. Storm water team.

The permittee shall assemble and oversee a "storm water team," which is responsible for the development of the SWPPP, any later modifications to it, and for compliance with the requirements in this permit.

The SWPPP must identify the personnel (by name [~~or~~]and position) that [~~are~~]the permittee made part of the storm water team, as well as their individual responsibilities. Each member of the storm water team must have ready 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.

7.2.2. Nature of construction activities.

The SWPPP must describe the nature of the construction activities, including the size of the project site (in acres) and the total area expected to be disturbed by the construction activities (in acres), construction support activity areas covered by this permit (see section 5), and the maximum area expected to be disturbed at any one time.

7.2.3. Emergency-related projects.

If conducting earth-disturbing activities in response to a public emergency (see section 1.3.), the permittee shall document the cause of the public emergency (e.g., natural disaster, extreme flooding conditions, etc.), information substantiating its occurrence (e.g., state emergency proclamation or similar state proclamation), and a description of the construction necessary to reestablish effected public services. The proclamation of a civil defense emergency or similar proclamation is required to be from the President of the United States or State Governor.

7.2.4. Identification of other site contractors.

The SWPPP must include a list of all other contractors (e.g., sub-contractors) who will be engaged in construction activities at the site, and the areas of the site over which each contractor has control.

Note: The department acknowledges that a list of all other contractors might not be available at the time the SWPPP and NOI are submitted. If that is the case, then the SWPPP must be amended to include the information required in Section 7.2.4 prior to the start of construction activities.

7.2.5. Sequence and estimated dates of construction activities.

The SWPPP must include a description of the intended sequence of construction activities, including a schedule of the estimated start dates and the duration of the activity, for the following activities:

7.2.5.1.

Installation of storm water [~~control measures,~~] controls, and when they will be made operational, including an explanation of how the sequence and schedule for installation of storm water [~~control measures~~]controls complies with section 5.1.1.3.1. and of any departures from manufacturer specifications pursuant to section 5.1.1.3.2., including removal procedures of the storm water [~~control measures~~] controls after construction has ceased;

7.2.5.2.

Commencement and duration of earth-disturbing activities, including clearing and grubbing, mass grading, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;

7.2.5.3.

Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;

7.2.5.4.

Final or temporary stabilization of areas of exposed soil. The dates for stabilization must reflect the applicable deadlines to which the permittee is subject to in section 5.2.1.; and

7.2.5.5.

Removal of temporary [~~storm water conveyances/channels~~] site drainage features and other storm water [~~control measures,~~]controls, removal of construction equipment and vehicles, and cessation of any pollutant-generating activities.

Note: 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 permittee or contractor to meeting these projections. When departures from initial projections are necessary, this should be documented in the SWPPP itself or in associated records, as appropriate.

7.2.6. Site map.

The SWPPP must include a legible site map, or series of maps, showing the following features of the project:

Note: Included in the project site are any construction support activities covered by this permit (see section 5).

7.2.6.1.

Boundaries of the property and of the locations where construction activities will occur, including:

a. Locations where earth-disturbing activities will occur, noting any sequencing of construction activities;

b. Approximate slopes before and after major grading activities and drainage patterns with flow arrows. Note areas of steep slopes, as defined in section 5.1.2.6.;

c. Locations where sediment, soil, or other construction materials will be stockpiled;

d. Locations of any contaminated soil or contaminated soil stockpiles;

e. Locations of any crossings of receiving state waters;

f. Designated points on the site where vehicles will exit onto paved roads;

g. Locations of structures and other impervious surfaces upon completion of construction; and

h. Locations of construction support activity areas covered by this permit (see section 5).

7.2.6.2.

Locations of [~~all~~]any receiving state waters, including wetlands, that exist within or in the immediate vicinity of the site and indicate which [~~waterbodies~~]of these receiving state waters are listed as impaired;

7.2.6.3.

The boundary lines of any natural buffers provided consistent with section 5.1.2.1.1.;

7.2.6.4.

Topography of the site, existing vegetative cover and features (e.g., forest, pasture, pavement, structures), and drainage pattern(s) of storm water onto, over, and from the site property before and after major grading activities;

7.2.6.5.

Storm water discharge locations, including:

a. Locations of any storm drain inlets on the site and in the immediate vicinity of the site to receive storm water runoff from the [~~project;~~] project site; [~~and~~]

b. Locations where storm water will be discharged to receiving state waters (including wetlands); and

c. Locations where storm water will exit the site.

7.2.6.6.

Locations of all potential pollutant-generating activities identified in section 7.2.7.;

7.2.6.7.

Locations of storm water [~~control measures;~~]controls; and

7.2.6.8.

Locations where chemicals will be used and stored.

7.2.7. Construction site pollutants.

The SWPPP must include the following:

a. A list and description of all the pollutant-generating activities on the site.

b. For each pollutant-generating activity, an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers and/or pesticides, paints, solvents, fuels) associated with that activity, which could be exposed to rainfall and could be discharged from the construction site. The permittee shall take into account where potential spills and leaks could occur that contribute pollutants to storm water discharges. The permittee shall also document any departures from the manufacturer's specifications for applying fertilizers containing nitrogen and phosphorus, as required in section 5.3.5.1.

7.2.8. Sources of non-storm water.

The SWPPP must also identify all sources of non-storm water and information, including, but not limited to, the design, installation, and maintenance of the [~~control measures~~]controls to prevent its discharge.

7.2.9. Buffer documentation.

If the permittee is required to comply with section 5.1.2.1. because a receiving state water is located within 50 feet of the project's earth disturbances, the permittee shall describe which compliance alternative the permittee has selected for the site, and comply with any additional requirements to provide documentation in section 5.1.2.1.

7.2.10. Description of storm water [~~control measures.~~]controls

7.2.10.1 Storm water [~~control measures~~]controls to be used during construction activity.

The SWPPP must describe all storm water [~~control measures~~]controls that are or will be installed and maintained at the site to meet the requirements of section 5. For each storm water [~~control measure,~~] control, the permittee must document:

a. *Information on the type of storm water control [~~measure~~]to be installed and maintained, including design information;*

b. *What specific sediment controls will be installed and made operational prior to conducting earth-disturbing activities in any given portion of the site to meet the requirement of section 5.1.2.2.1.;*

c. *If contaminated soil exists on-site, the [~~control measures~~]controls to either prevent the contact of storm water with the contaminated soil, including any contaminated soil stockpiles, or prevent the discharge of any storm water runoff which has contacted contaminated soil or any contaminated soil stockpiles;*

d. *For exit points on the site, document stabilization techniques the permittee will use and any additional controls that are planned to remove sediment prior to vehicle exit consistent with section 5.1.2.3.; and*

e. *For linear projects, where the permittee has determined that the use of perimeter controls in portions of the site is impracticable, document why the permittee believes this to be the case (see section 5.1.2.2.1.).*

7.2.10.2. Stabilization practices.

The SWPPP must describe the specific vegetative and/or non-vegetative practices that will be used to comply with the requirements in section 5.2., including if the permittee will be complying with the stabilization deadlines specified in section 5.2.1.3.2. The permittee shall document the circumstances that prevent the permittee from meeting the deadlines specified in sections 5.2.1.1. and/or 5.2.1.2.

7.2.10.3. Post construction measures.

Descriptions of measures that will minimize the discharge of pollutants via storm water discharges after construction operations have been finished. All projects require post construction BMPs to minimize the discharge of pollutants via storm water discharges after construction operations have been finished. Examples include: open, vegetated swales and natural depressions; structures for storm water retention, detention, or recycle; velocity dissipation devices to be placed at

the outfalls of detention structures or along with the length of outfall channels; and other appropriate measures.

7.2.11. Pollution prevention procedures.

7.2.11.1. Spill prevention and response procedures.

The SWPPP must describe procedures that the permittee will follow to prevent and respond to spills and leaks consistent with section 5.3., including:

a. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) 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 5.3.4. and established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available.

The permittee may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that the permittee keeps a copy of that other plan onsite.

Note: Even if the permittee already has an SPCC or other spill prevention plan in existence, the plans will only be considered adequate if they meet all of the requirements of this section, either as part of the existing plan or supplemented as part of the SWPPP.

7.2.11.2. Waste management procedures.

The SWPPP must describe procedures for how the permittee will handle and dispose of all wastes generated at the site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

7.2.12. Procedures for inspection, maintenance, and corrective action.

The SWPPP must describe the procedures the permittee will follow for maintaining the storm water [~~control measures,~~]controls, conducting site inspections, and, where necessary, taking corrective actions, in accordance with section 5.1.1.4., section 5.3.2., section 9, and section 10 of the permit[~~.~~], accordingly. The following information must also be included in the SWPPP:

a. Personnel responsible for conducting inspections;

b. The inspection schedule the permittee will be following, which is based on whether the site is subject to section 9.1.2. or section 9.1.3., and whether the site qualifies for any of the allowances for reduced inspection frequencies in 9.1.4. If the permittee will be conducting inspections in accordance with the inspection schedule in section 9.1.2.a. or section 9.1.2.b., the location of the rain gauge on the site or the address of the weather station the permittee will be using to obtain rainfall data[~~;~~]. If the permittee will be reducing the inspection frequency in accordance with section 9.1.4.2., the beginning and ending dates of frozen conditions on the site; and

c. Any inspection or maintenance checklists or other forms that will be used.

7.2.13. Staff training.

The SWPPP must include documentation that the required personnel were trained in accordance with the following:

7.2.13.1.

Prior to the commencement of earth-disturbing activities or pollutant-generating activities, whichever occurs first, the permittee shall ensure that the following personnel understand the requirements of this permit and their specific responsibilities with respect to those requirements:

a. Personnel who are responsible for the design, installation, maintenance, and/or repair of storm water controls (including pollution prevention [~~measures);~~]controls);

b. Personnel who are responsible for the application and storage of chemicals (if applicable);

c. Personnel who are responsible for conducting inspections as required in [~~Part 4.1.1;~~]section 9.1.1.; and

d. Personnel who are responsible for taking corrective actions as required in [~~Part 5.~~]section 10.

Notes: (1) If the person requiring training is a new employee, who starts after the permittee commences earth-disturbing or pollutant-generating activities, the permittee shall ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit. (2) For emergency-related construction activities, the requirement to train personnel prior to commencement of earth-disturbing activities does not apply, however, such personnel must have the required training prior to NOI submission.

7.2.13.2.

The permittee is responsible for ensuring that all activities on the site comply with the requirements of this permit. The permittee is not required to provide or document formal training for subcontractors or other outside service providers, but must ensure that such personnel understand any requirements of the permit that may be affected by the work they are subcontracted to perform.

At a minimum, personnel must be trained to understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):

a. The location of all storm water controls on the site required by this permit, and how they are to be maintained;

b. The proper procedures to follow with respect to the permit's pollution prevention requirements; and

c. When and how to conduct inspections, record applicable findings, and take corrective actions.

7.2.14. Documentation of compliance with Safe Drinking Water Act Underground Injection Control (UIC) requirements for certain subsurface storm water controls.

If using any of the following storm water controls at the site, as they are described below, the permittee must document any contact with the department's Safe Drinking Water Branch for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's

implementing regulations at 40 CFR Parts 144 -147. Such controls would generally be considered Class V UIC wells:

a. 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);

b. Commercially manufactured precast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate storm water flow; and

c. 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).

7.2.15. Information to be included in the SWPPP prior to the start of construction activities.

7.2.15.1. Contractor information.

The following contractor (general and subcontractors) information shall be included in the SWPPP: legal name, street address, contact person's name and position title, telephone number, and email address.

7.2.15.2. Other state, federal, or county permits.

The following are required to be included in the SWPPP prior to the start of construction activities, if applicable:

a. Copy of the drainage system owner's approval allowing the discharge to enter their drainage system;

b. Copy of the county-approved grading permit;

c. Copy of the department of the army permit and section 401 water quality certification; and

d. A list of other permits.

7.2.16. Any other information as requested by the director.

7.2.17. SWPPP certification.

The certifying person or duly authorized representative must certify, sign, and date the SWPPP in accordance with section 15 of appendix A, chapter 11-55.

7.2.18. Post-authorization additions to the SWPPP.

After the issuance of the NGPC the permittee shall include the following documents as part of the SWPPP:

a. A copy of the NOI submitted to the department along with any correspondence exchanged between the permittee and the department related to coverage under this permit;

b. A copy of the NGPC and all attachments included with the NGPC (an electronic copy easily available to the storm water team is also acceptable).

***Rationale:** Section 7 of the general permit establishes the overall requirement that permittees develop and maintain Storm Water Pollution Prevention Plans (SWPPPs), and section 7.2 specifies the information that must be included in a SWPPP. A SWPPP is intended to serve as a road map for how the permittee will comply with the effluent limitations and other conditions of the general permit, and it must be in place prior to discharging.*

The department emphasizes that a SWPPP is an external tool, and it does not include effluent limitations. Permittees are therefore able to modify or retool their SWPPPs during the course of the general permit term, and to continually improve their compliance with the requirements of the general permit. Permittees must document all SWPPP modifications in accordance with section 7.4.3, and they must certify all SWPPP modifications in accordance with section 7.4.4 of the general permit.

Section 7.2.1 of the general permit requires permittees to provide in their SWPPPs information about the Storm Water Team, and to ensure that specific personnel are identified as responsible for overseeing its development, and for ensuring compliance with the general permit requirements. This revision is proposed to clarify that a member of the Storm Water Team must be identified by name and position.

Section 7.2.6 of the general permit requires permittees to provide in their SWPPPs a legible site map, or series of maps, showing where construction activities and construction support activities will occur in relation to the

boundaries of the project site. This revision is proposed to clarify that permittees must identify the locations of any receiving state waters within the vicinity of the construction site and identify if any of these receiving state waters are impaired. Information about receiving state waters will assist permittees in their compliance with the erosion and sediment control requirements specified in section 5.1.2, the pollution prevention requirements specified in section 5.3.3, and the water quality-based conditions for impaired state waters specified in section 6.2 of the general permit.

Section 7.2.10 of the general permit requires permittees to list in their SWPPPs all storm water controls that are installed and maintained at the construction site in order to comply with the effluent limitations specified in section 5 of the general permit. Storm water controls include erosion controls, sediment controls, pollution prevention controls, and perimeter controls. Storm water controls are called "storm water control measures" in the current version of the general permit. It is proposed to appropriately replace all occurrences of "storm water control measures" in the general permit with "storm water controls." This revision is proposed to maintain uniformity in the description of all controls as specified in the general permit, and to maintain conformity with the terminology used in the 2022 EPA CGP.

Section 7.2.12 of the general permit requires permittees to describe in their SWPPPs all procedures for inspections, maintenance activities, and corrective actions, and to demonstrate compliance with the requirements of the general permit. As specified in section 9.1.2 of the general permit, permittees are required to conduct site inspections at least once every 7 calendar days, or once every 14 calendar days and within 24 hours of the occurrence of a storm event. This revision is proposed to list the correct references to the inspection frequency requirements that are specified in section 9.1.2 of the general permit. This revision is also proposed to specify the reporting requirements for permittees who are reducing their inspection frequency due to frozen conditions at their construction sites in accordance with section 9.1.4.2 of the general permit. Specifically, permittees must document the beginning and ending dates of frozen periods in their records.

Section 7.2.13 of the general permit specifies the staff training requirements to ensure that each member of the storm water team understands the requirements of the general permit and their specific responsibilities with respect to those requirements. This revision is proposed to list the correct reference to the requirements that are specified in section 9.1.1 for personnel who are responsible for conducting site inspections. This revision is also proposed to list

the correct reference to the requirements that are specified in section 10 for personnel who are taking corrective actions.

This revision does not propose to include the additional training provisions, that are specified in the 2022 EPA CGP, for personnel conducting site inspections. The EPA added the 2022 training provisions to ensure that personnel who are responsible for conducting site inspections are competent and that their training is adequate. The 2022 training provisions specify that anyone carrying out inspections must either (1) complete the EPA construction inspection course and pass the exam developed for the 2022 EPA CGP, or (2) hold a current valid certification or license from an equivalent training program. The 2022 training provisions also specify an exception for members of the storm water team who are working under the supervision of a "qualified person."

The department considers the 2022 training provisions to be essentially an extension of the existing general permit requirement that "the person conducting site inspections is a qualified person." The "qualified person" requirements are found in section 9.1.1 of the general permit, and they specify that a "qualified person" must be "a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit." In many ways, the 2022 training provisions represent a different method of establishing the same core inspection requirements. The key difference is that the 2022 training provisions specify the mechanism by which personnel conducting site inspections must obtain their necessary training. The department needs more time to evaluate the 2022 training provisions.

Revised Section 8.1

8. Implementation of the Storm Water Pollution Prevention Plan (SWPPP)

8.1.

The permittee shall design, operate, implement, and maintain the SWPPP to ensure that storm water discharges associated with construction activities will [~~not cause or contribute to a violation of~~]meet applicable state water quality standards.

8.2.

The permittee shall implement the SWPPP to improve the quality of storm water discharges or when instructed by the director.

Rationale: *Section 8 of the general permit requires all permittees to design, operate, implement, and maintain the SWPPP to ensure discharges meet applicable water quality standards. This revision is proposed to maintain uniformity by removing references to the reasonable potential approach. For more details, see the rationale for the revised section 2.2 of the general permit.*

Revised Section 9.1

9.1. Site Inspections

The permittee shall inspect the receiving state waters, storm water runoff and [~~control measures~~] all controls and best management practices to detect violations of [~~and conditions which may cause violations of the basic~~] applicable water quality criteria as specified in section 11-54-4 [~~in accordance with this section.~~] (e.g., the permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other [~~life.)~~] life). The permittee must inspect the receiving state waters only when there is a discharge from the project site or there is a potential for downstream erosion. If the discharge enters an MS4 or separate drainage system prior to the receiving state water, then the permittee may inspect their discharge where it enters the drainage system rather than at the receiving water. When effluent commingles with offsite water or pollutant sources prior to discharging to the receiving water or separate drainage system, in lieu of inspecting the receiving water or where it enters the drainage system, the permittee may inspect the effluent at a location representative of the discharge quality prior to commingling. The permittee is not required to inspect areas that, at the time of the inspection, are considered unsafe to inspection personnel, if the unsafe conditions have been documented.

9.1.1. Person(s) responsible for [~~inspecting site.~~] conducting site inspection

The person(s) inspecting the site may be a person on staff or a third party hired to conduct such inspections. The permittee is responsible for ensuring that [~~the person who conducts inspections is a "qualified person."~~]any person conducting site inspections is a "qualified person."

Note: A "qualified person" is a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact storm water quality, and the skills to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit.

9.1.2. Frequency of Inspections.

At a minimum, the permittee shall conduct a site inspection in accordance with one of the two schedules listed below, unless subject to section 9.1.3. for discharges to impaired waters or qualify for a section 9.1.4.[:] reduction in the inspection frequency. As specified in section 9.1., the permittee is not required to inspect areas that, at the time of inspection, are considered unsafe to inspection personnel, if the unsafe conditions have been documented.

a. At least once every 7 calendar days; or

b. Once every 14 calendar days and within 24 hours of the occurrence of a storm event [~~of 0.25 inches or greater. To determine if a storm event of 0.25 inches or greater has occurred on the site, the permittee shall either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of the location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, the permittee shall record the total rainfall measured for that day in accordance with section 9.1.7.1.d.~~] as specified in section 9.1.2.1.1. or section 9.1.2.1.2.

Note: Inspections are only required during the project's normal working hours.

Note: The permittee is required to specify in the SWPPP which schedule will be followed.

[~~Note: "Within 24 hours of the occurrence of a storm event" means that the permittee is required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. Thus, if the permittee has elected to inspect bi-weekly in accordance with section 9.1.2.b. and there is a storm event at the site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the permittee is required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.~~]

9.1.2.1. Types of storm event

9.1.2.1.1. For rain

A storm event that produces 0.25 inches or more of rain within a 24-hour period.

a. If a storm event produces 0.25 inches or more of rain within a 24-hour period (including when there are multiple, smaller storms that alone produce less than 0.25 inches but together produce 0.25 inches or more in 24 hours), the permittee is required to conduct one inspection within 24 hours of when 0.25 inches of rain or more has fallen.

b. If a storm event produces 0.25 inches or more of rain within a 24-hour period on the first day of a storm and continues to produce 0.25 inches or more of rain on subsequent days, the permittee must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the last day of the storm that produces 0.25 inches or more of rain (i.e., only two inspections would be required for such a storm event).

Note: For example, if 0.30 inches of rain falls on Day 1, 0.25 inches of rain falls on Day 2, and 0.10 inches of rain fall on Day 3, the permittee is required to conduct a first inspection within 24 hours of the Day 1 rainfall and a second inspection within 24 hours of the Day 2 rainfall, but a third inspection is not required within 24 hours of the Day 3 rainfall.

9.1.2.1.2. For snow

A discharge of snowmelt from a storm event that produces 3.25 inches or more of snow accumulation within a 24-hour period.

Note: 3.25 inches of snow is equivalent to 0.25 inches of rain. This is 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.

a. The permittee is required to conduct one inspection once the discharge of snowmelt from a 3.25-inch or more snow accumulation occurs.

b. The permittee is required to conduct additional inspections if following the discharge from the first snowmelt, there is a discharge of snowmelt from a separate storm event that produces 3.25 inches or more of snow accumulation.

9.1.2.2.

To determine whether a storm event meets either of the thresholds in section 9.1.2.1.1. or section 9.1.2.1.2.:

a. *For rain, the permittee must either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of the location. For any 24-hour period during which there is 0.25 inches or more of rainfall, the permittee must record the total rainfall measured for that day in accordance with section 9.1.7.1d.*

b. *For snow, the permittee must either take measurements of snowfall at the site, or rely on similar information from a local weather forecasting provider that is representative of the location.*

Note: For snowfall measurements, the department suggests use of a piece of wood, about 16 inches by 16 inches in size, that is placed in an unobstructed part of the site on a hard surface.

9.1.3. Increase in inspection frequency [~~for sites discharging to impaired waters.~~]

[~~For any portion of the site that discharges to an impaired water (see section 6.2.), instead of the inspection frequency specified in section 9.1.2., the permittee shall conduct inspections in accordance with the following inspection frequencies:~~]

[~~a.~~ ~~Once every 7 calendar days; and~~]

[~~b.~~ ~~Within 24 hours of the occurrence of a storm event of 0.25 inches or greater. To determine if a storm event of 0.25 inches or greater has occurred on the site, the permittee shall either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of the location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, the permittee shall record the total rainfall measured for that day in accordance with section 9.1.7.1.d.~~]

For any portion of the site that discharges to an impaired water (see section 6.2), the permittee shall conduct an inspection once every 7 calendar days and within 24 hours of the occurrence of a storm event that produces 0.25 inches or more of rain within a 24-hour period, or within 24 hours of the discharge of snowmelt from a storm event that produces 3.25 inches or more of snow accumulation within a 24-hour period. Refer to sections 9.1.2.2.a. and 9.1.2.2.b. for the

requirements to determine if a storm event produces enough rain or snow to trigger the inspection requirement.

Note: The increased inspection frequencies established in this section take the place of the inspection frequencies specified in section 9.1.2 for the portion of the site affected.

Note: Inspections are only required during the project's normal working hours.

[Note: "Within 24 hours of the occurrence of a storm event" means that the permittee is required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. Thus, if there is a storm event at the site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the permittee is required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.]

Note: If the permittee qualifies for any of the reduced inspection frequencies in section 9.1.4., the permittee may conduct inspections in accordance with section 9.1.4. for any portion of the site that discharges to an impaired water.

9.1.4. Reductions in inspection frequency.

[For stabilized areas.]9.1.4.1. For stabilized areas

The permittee may reduce the frequency of inspections to once per month until the permit coverage expires or is terminated in any area of the site where the stabilization steps in sections 5.2.1.2.1. and 5.2.1.2.2. 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 9.1.2. or 9.1.3., if applicable. The permittee shall document the beginning and ending dates of this period in the records.

9.1.4.2. For frozen conditions

9.1.4.2.1.

If construction activities are suspended due to frozen conditions, the permittee may temporarily suspend inspections on the site until thawing conditions begin to occur under the following conditions.

a. *If discharges are unlikely due to continuous frozen conditions that are likely to continue at the site for least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume regular inspection frequency described in sections 9.1.2. and 9.1.3., as applicable;*

Note: The permittee must use data sets that include the most recent data available to account for recent precipitation patterns and trends.

b. *If earth disturbances have been suspended; and*

c. *If all disturbed areas of the site have been stabilized in accordance with section 5.2.1.*

9.1.4.2.2.

If construction activities are still conducted during frozen conditions, the permittee may reduce the inspection frequency to once per month under the following conditions.

a. *If discharges are unlikely due to continuous frozen conditions that are likely continue at the site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume regular inspection frequency described in sections 9.1.2. and 9.1.3., as applicable; and*

b. *If the areas in which the construction activities are actively conducted, the disturbed areas of the site have been stabilized in accordance with section 5.2.1.*

9.1.4.2.3.

The permittee shall document the beginning and ending dates of this period in the records.

9.1.5. Areas that need to be inspected.

The permittee shall at a minimum inspect the following areas of the site:

a. All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with section 5.2.;

b. All storm water controls (including pollution prevention [~~measures)~~]controls) installed at the site to comply with this permit;

Note: This includes the requirement to inspect sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with section 5.1.2.3.

c. Material, waste, borrow, or equipment storage and maintenance areas that are covered by this permit;

d. All areas where storm water typically flows within the site, including [~~drainageways~~]constructed or natural site drainage features designed to divert, convey, and/or treat storm water;

e. All points of discharge from the site; and

f. All locations where stabilization measures have been implemented.

[~~The~~] As specified in section 9.1., the permittee is not required to inspect areas that, at the time of the inspection, are considered unsafe to inspection [~~personnel.~~] personnel, if the unsafe conditions have been documented.

9.1.6. Requirements for inspections.

During [~~the~~]each site inspection, the permittee shall at a minimum:

9.1.6.1.

Check whether all erosion and sediment controls and pollution prevention controls are installed, appear to be operational, and are working as intended to minimize pollutant discharges. Determine if any controls need to be replaced, repaired, or maintained in accordance with sections 5.1.1.4. and 5.3.2.;

9.1.6.2.

Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;

9.1.6.3.

Identify any locations where new or modified storm water controls are necessary to meet the requirements of sections 5 and/or 6;

9.1.6.4.

At points of discharge and, if applicable, on the banks of any receiving state waters flowing within the property boundaries or immediately adjacent to the property, check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the discharge;[~~ and~~]

9.1.6.5.

Check for signs of sediment deposition that are visible from the site and attributable to the discharge (e.g., sand bars with no vegetation growing on top in receiving state waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels); and

9.1.6.6

Identify any and all incidents of noncompliance observed.

[~~9.1.6.6.~~]9.1.6.7.

If a discharge is occurring during the inspection, the permittee is required to:

a. Identify all points of the property from which there is a discharge[~~:~~]; and

b. Observe and document the visual quality of the discharge, and take note of the characteristics of the storm water discharge, including color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of storm water pollutants[~~:~~]. Check also for signs of these same pollutant characteristics that are visible from the site and attributable to the discharge in receiving state waters or in other constructed or natural site drainage features; and

c. Document whether the storm water controls are operating effectively, and describe any such controls that are clearly not operating as intended or are in need of maintenance.

[~~9.1.6.7.~~]9.1.6.8.

Based on the results of the inspection[~~, initiate corrective action under section 10.~~]:

a. Initiate any necessary maintenance repairs or replacements under section 10; and

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

9.1.7. Inspection report.

9.1.7.1.

Requirement to Complete Inspection Report. The permittee must complete an inspection report within 48 hours of completing any site inspection. Each inspection report must include the following:

a. The inspection date;

b. Names and titles of personnel making the inspection;

c. A summary of the inspection findings, covering at a minimum the observations made in accordance with section 9.1.6.[~~;~~], including any problems found during the inspection that make it necessary to perform routine maintenance pursuant to section 5.1.1.4.2.1. or corrective actions pursuant to section 10.

d. If inspecting the site at the frequency specified in section 9.1.2.b., section 9.1.3., or section 9.1.4., and [~~have~~]the permittee conducted an inspection because of a storm event that produced rainfall measuring 0.25 inches or [~~greater,~~]more within a 24-hour period, the permittee shall include the applicable rain gauge or weather station readings that triggered the inspection[~~;~~]. Similarly, if the permittee conducted an inspection because of a snowmelt discharge from a storm event that produced 3.25 inches or more of snow within a 24-hour period, the permittee must include any measurements taken of snowfall at the site, or weather station information that triggered the inspection; and

e. If determined that it is unsafe to inspect a portion of the site, the permittee shall describe the reason to be unsafe and specify the locations that this condition applied to.

9.1.7.2. Signature Requirements.

Each inspection report must be certified and signed in accordance with section 15 of appendix A, chapter 11-55 or the duly authorized representative that meets the requirements of 11-55-07(b).

9.1.7.3. Recordkeeping Requirements.

The permittee is required to keep a current, 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 onsite inspection or upon request by the department or EPA.

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

a. In a format that can be read in a similar manner as a paper record;

b. Legally dependable with no less evidentiary value than their paper equivalent; and

c. 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.

All inspection reports completed for this section must be retained for at least three years from the date that the permit coverage expires or is terminated.

***Rationale:** Section 9.1 of the general permit requires permittees to inspect the receiving state waters, storm water runoff and all controls and best management practices to detect violations of applicable state water quality standards. It is vital that permittees conduct site inspections within a day of the occurrence of a storm event to identify storm water controls that have been compromised and no longer functioning properly, and to avoid any potential discharges of pollutants that are caused by storm water or snowmelt runoff. Specifically, permittees are required to conduct a site inspection either on a weekly frequency, or biweekly frequency and within 24 hours of the occurrence of a storm event. This revision is proposed to include additional site inspection requirements that are necessary to*

account for runoff due the discharge of snowmelt after a storm event. The proposed site inspection requirements are as stringent as the equivalent site inspection provisions specified in the 2022 EPA CGP.

The proposed revision specifies threshold requirements for triggering the need for site inspections after the occurrence of a qualifying storm event that produces either 0.25 inches or more of rain, or 3.25 inches or more of snow accumulation within a 24-hour period. The EPA relied on published data from the National Oceanic and Atmospheric Administration (NOAA) to derive a numeric equivalent for snowfall to the 0.25-inch rain event. On average, data from NOAA indicates that 13 inches of snow is equivalent to 1 inch of rain (i.e., 3.25 inches of snow to 0.25 inches of rain). Permittees are required to conduct a site inspection after a 3.25-inch snow accumulation only if there is sufficient snowmelt to cause a discharge. This revision also clarifies that permittees are not required to inspect areas that are considered unsafe to inspection personnel at the time of the inspection, in accordance with section 9.1.

This revision is proposed to also clarify the inspection frequency for discharges to state waters that are identified as impaired, and to specify the reduction in inspection frequency due to frozen conditions.

Revised Section 10.4

10.4. Corrective action [~~report~~]log

For each corrective action taken in accordance with this section, the permittee shall [~~complete a corrective action report, which includes the applicable information in sections 10.4.1. and 10.4.2. Note that these reports must be maintained in the permittee's records but do not need to be provided to the department except upon request.~~]record the following information in a corrective action log.

10.4.1.

Within 24 hours of discovering the occurrence of one of the triggering conditions in section 10.2.1. at the site, the permittee shall [~~complete a report of the following:~~]document the following information:

a. [~~Which condition was~~]The condition identified at the site;

b. The nature of the condition identified; and

c. The date and time of the condition identified and how it was identified.

10.4.2.

Within 7 calendar days of discovering the occurrence of one of the triggering conditions in section 10.2.1. at the site, the permittee shall [~~complete a report of the following:~~]document the following information:

a. Any follow-up actions taken to review the design, installation, and maintenance of storm water controls, including the dates such actions occurred;

b. A summary of storm water control modifications taken or to be taken, including a schedule of activities necessary to implement changes, and the date the modifications are completed or expected to be completed; and

c. Notice of whether SWPPP modifications are required as a result of the condition identified or corrective action.

10.4.3.

[~~Each corrective action report~~]Each entry into the corrective action log, consisting of the information required by both sections 10.4.1. and 10.4.2., must be certified and signed in accordance with section 15 of appendix A, chapter 11-55 or the duly authorized representative that meets the requirements of 11-55-07(b).

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

a. In a format that can be read in a similar manner as a paper record;

b. Legally dependable with no less evidentiary value than their paper equivalent; and

c. 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.

10.4.4.

The permittee shall keep a current copy of [~~all corrective action reports~~]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 onsite inspection or upon request by the department.

[~~All corrective action reports completed for this Part must be retained~~]The permittee shall retain the corrective action log for at least three years from the date that the permit coverage expires or is terminated.

Rationale: *Section 10.4 of the general permit requires permittees to document on corrective action reports the problems found on the construction site, the corresponding corrective actions taken, and the applicable implementation dates. In practice, there are situations where permittees find it difficult to differentiate between corrective action reports and inspection reports. The scope of both reports is similar in the sense that they both require documentation of the problems found and the actions taken by the permittees to fix or correct them. To make clear the distinction between the two reports and to improve compliance with the general permit, the department intends to streamline the documentation required for corrective actions.*

This revision is proposing to replace the current requirements for completing a corrective action report with new requirements for documenting the same information as an entry into a "corrective action log." Specifically, the proposed revision requires permittees to document the following information on corrective action logs:

- *Within 24 hours of identifying the corrective action condition, document the specific condition, and the date and time when it was identified;*
- *Within 7 calendar days of identifying the corrective action condition, document any follow-up actions, and the dates when the actions were taken;*
- *Within 7 calendar days of identifying the corrective action condition, document any modifications made or to be made to storm water controls, and the dates when the modifications were completed or expected to be completed; and*
- *Within 7 calendar days of identifying the corrective action condition, document if any corrective actions taken would require updating the SWPPP.*

The proposed revision also establishes requirements to ensure the certification, format, availability, and retention of corrective action logs:

- *Each corrective action log entry can be certified and signed in accordance with either 11-54-07(a) or 11-54-07(b);*

• Each corrective action log entry may be entered, certified, signed, and kept electronically;
• Corrective action logs must be immediately available at the time of an onsite inspection; and
• Corrective action logs must be retained for at least 3 years from the date when the general permit coverage expires or is terminated.

Revised Section 11

11. Notice of Intent (NOI) requirements

11.1.

The owner or [~~its duly authorized representative~~] operator shall submit a complete notice of intent no later than thirty days before the proposed starting date of the construction activity or thirty days before the expiration date of the applicable notice of general permit coverage.

11.2.

The owner or [~~its duly authorized representative~~] operator shall include the following information in the notice of intent:

11.2.1.

Information required in section 34 of appendix A of chapter 11-55;

11.2.2.

That coverage is being requested as a result of an emergency and meets the eligibility [~~requirements~~] conditions under this permit and information required in section 7.2.3.

11.2.3.

That coverage is being requested for discharge to an impaired water, if applicable;

11.2.4.

Preparation of a SWPPP in accordance with section 7 prior to submitting the NOI;

11.2.5.

Information required in section 7.2.2 – Nature of construction activities.

11.2.6.

Information required in section 7.2.5. – Sequence and estimated dates of construction activities.

11.2.7.

Information required in section 7.2.6. – Site map, except for sections 7.2.6.6. [~~–~~]through 7.2.6.8.

11.2.8.

If applicable, army corps of engineers' jurisdictional determination and section 401 water quality certification best management practices plan.

11.2.9.

Agreement to the terms, conditions, and requirements in this general permit and all other applicable State, County, and Federal regulations.

11.3.

The director may require additional information to be submitted.

11.4.

The owner or [~~its duly authorized representative~~] operator shall submit a notice of intent form or forms specified by the CWB.

Electronic notice of intent forms may be found at the department's e-Permitting portal. The e-Permitting portal may be accessed via the [~~clean water branch's~~] Clean Water Branch website at: http://health.hawaii.gov/cwb/

11.4.1.

The initial notice of intent shall be signed by the certifying person as described in section 11-55-07(a). A revised notice of intent (a notice of intent that the

department has required to be revised and resubmitted) shall be signed by either the certifying person or duly authorized representative as described in section 11-55-07(b).

11.4.2.

The owner or operator shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

Rationale: *Section 11 of the general permit specifies the requirements for the submission of NOIs.*

It is specified that the owner or its authorized representative must submit a NOI no later than thirty days before the proposed discharge date for new dischargers or thirty days before the expiration date of an applicable NGPC for existing dischargers. An operator who is authorized by the owner can be designated as the duly authorized representative in accordance with section 11-55-07(b). In practice, either the owner or the duly authorized representative (including the authorized operator) can sign a NOI. The signatory requirements of a NOI are separate from the requirements to provide information in a NOI that are applicable to the either owner or the operator (i.e., the authorized operator). This revision is proposed to clearly identify the permittees who are responsible for providing information in a NOI by replacing "its duly authorized representative" with "operator." This revision is also proposed to clearly identify the permittees who can sign an initial NOI or a revised NOI.

It is specified in section 1.3 of the general permit that discharges of storm water from construction activities are automatically covered by the general permit in response to public emergencies under certain conditions. However, it is specified in section 11.2.2 that a NOI requesting coverage as a result of a public emergency must meet the eligibility requirements of the general permit. This revision is proposed to maintain uniformity by specifying that there are eligibility conditions for NOIs requesting coverage due to public emergencies.

Lastly, it is proposed to include the Post Office box of the Clean Water Branch for the submission of NOIs by postal mail.

Revised Section 12

12. Reporting Requirements

12.1.

The permittee shall immediately notify the director of the incident and identify the [~~pollutant(s) source(s)~~]pollutant sources and the proposed and implemented [~~control~~]controls or mitigative measures as required in section 16 of appendix A of chapter 11-55.

12.2.

The permittee shall notify the director of the construction start date through the e-Permitting portal within seven (7) calendar days before the start of construction activities. All communication with the department shall include the file number and the certification statement. The notification will only be accepted from the person qualified in accordance with section 11-55-34.08(f).

Rationale: *This revision is proposed to avoid the ambiguous use of parenthetical plurals in section 12.1 of the general permit. Specifically, it is proposed to replace "pollutant(s) source(s)" with "pollutant sources." It is also proposed to replace the singular form of "control" with the plural form.*

Revised Section 13

13. Submittal Requirements

13.1.

The [~~owner~~]permittee or its duly authorized representative shall prepare a monthly compliance report, which shall include but is not limited to information as required in this general permit and NGPC, any incidences of non-compliance and corrective actions. The monthly compliance report shall be kept on-site and available by the end of the next business day when requested by the department.

13.2.

When all construction activities have ceased, the [~~owner~~]permittee shall submit to the department a completed Notice of Cessation. The department shall receive this information within 7 calendar days after the end of the month.

13.3.

The [~~owner~~]permittee or its duly authorized representative shall submit signed copies of all reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
[~~State~~]Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

13.4.

*The [~~owner~~]permittee or its duly authorized representative shall include the following certification statement and an original signature**, or as otherwise specified,** on each submittal in accordance with section 11-55-34.08(e) or (f):*

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

13.5.

The [~~owner~~]permittee or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

Rationale: *Section 13 of the general permit requires permittees to prepare and submit a monthly compliance report that documents any incidences of non-compliance and corrective actions. Currently, the term "owner" is used interchangeably with the term "permittee," which can potentially cause confusion since the owner is not always the permittee. There are NGPCs with the operator of the project/facility identified as the permittee. This revision is proposed to avoid confusion and to provide clarity by replacing the term "owner" with the term "permittee."*

New Section 17

17. Administrative Extension

Any notice of general permit coverage issued under the general permit dated February 9, 2019, shall be automatically administratively extended. This administrative extension shall expire sixty days after the effective date of this general permit unless:

17.1.

A notice of intent for coverage under this general permit is submitted within sixty days after the effective date of this general permit. The administrative extension shall thus expire on the effective date of the notice of general permit coverage authorizing the existing discharge under this general permit; or

17.2.

An application for a NPDES individual permit coverage is submitted within sixty days after the effective date of this general permit. The administrative extension shall thus expire on the effective date of the NPDES individual permit authorizing the existing discharge.

Rationale: *Prior to the expiration date of the current general permit, permittees do not know the requirements of the new general permit, and therefore, permittees cannot request for a renewal when they do not know if compliance with the new general permit is possible. To avoid this situation, the renewal process has been revised and the administrative extension process of a NGPC issued under the general permit has been clarified. This revision is proposed to specify the requirements of the administrative extension process. For more details, see the rationale for the revised section 3.3 of the general permit.*

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

Not applicable.

(6) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
(ii) Procedures for requesting a hearing and the nature of that hearing; and
(iii) Any other procedures by which the public may participate in the final decision.

Refer to HAR 11-1 Subchapter 3 for procedures for adopting rules. The proposed NPDES General Permit is issued as Appendix C within HAR Chapter 11-55, Water Pollution Control.

(7) Name and telephone number of a person to contact for additional information.

Mr. Darryl Lum
Chief
Clean Water Branch
Department of Health
Ph. (808) 586-4309

(8) For NPDES permits, provisions satisfying the requirements of § 124.56.

Refer to 40 CFR 450 (Construction and Development Effluent Guidelines).

(9) Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

Not applicable.