

**RESPONSE TO COMMENTS
FINAL PERMITTING DECISION**

Permit No.: ARR150000
Prepared by: Leon Golden

The following are responses to comments received by the Division of Environmental Quality (DEQ) regarding the draft permit number referenced above and are developed in accordance with regulations promulgated at 40 C.F.R. § 124.17, Pollution Control and Ecology Commission (PC&EC) Rule 8 (Administrative Procedures), codified as 8 CAR pt. 11, and Arkansas Code Annotated § 8-4-203(e)(2).

Introduction

The above permit was published for public comment on August 10, 2025. The public comment period ended on September 9, 2025.

This document contains a summary of the comments that DEQ received during the public comment period. The following people or organizations sent comments to DEQ during the public notice period. A total of twenty-eight (28) comments were raised by four (4) separate commenters.

	Commenter	Number of Comments Raised
1.	City of Little Rock Public Works Department, Civil Engineering Section	8
2.	PMI, a Terracon Company	4
3.	Gregory Ewanitz, Lennar	12
4.	Richard Howe, Earthworks Environmental, LLC	4

Comments by City of Little Rock Public Works Department, Civil Engineering Section

Comment 1 Part I.A.: Stormwater Team should be defined in this section (Definitions);

Response: DEQ has defined the term “Stormwater Team” in Part I.A.54 of the general permit as stated below:

“Stormwater Team” means the group of individuals responsible for overseeing the development and modification of the SWPPP, as well as ensuring compliance with all permit requirements. All members of the Stormwater Team must be identified in the SWPPP.

Comment 2 Part I.B.11.E.: “discharges into an impaired waterbody”:

This requires clarification and additional explanation from DEQ what is meant by “discharging into”. Does that mean being within a specific distance? Is that distance measured by miles or water miles? From what point is that distance measured?

Response: DEQ has revised Part I.B.11 as follows:

General Applicability. The following conditions apply to all discharges evaluated under this section. A discharge is considered to occur into a waterbody when stormwater runoff from the permitted site, either directly or through a conveyance system such as a ditch, swale, or storm drain, ultimately flows to that waterbody under normal hydrologic conditions. For discharges that enter a storm sewer system prior to leaving the site, the discharge point is where the stormwater from that system first enters a receiving waterbody.

For purposes of evaluating potential impacts, DEQ identifies the first receiving waterbody and reviews all waters within one (1) mile, or more on a case-by-case basis, downstream of the stormwater discharge points to determine whether any are listed as impaired (303(d)), designated as Sensitive Waters, or subject to a Total Maximum Daily Load (TMDL) or similar water quality programs. The one-mile distance is measured along the receiving stream’s flow path under normal conditions.

Comment 3 Part I.B.13.C.: Additional explanation and clarification should be provided;

Are any of the following scenarios considered discharging into an impaired waterbody?

- the construction site discharges into an unimpaired waterbody which empties into an impaired segment of another waterbody;
- the construction site discharges into a stormwater piping system which empties into an open ditch which ultimately empties into an impaired segment of a waterbody;
- the construction site discharges into an unimpaired segment of a waterbody which flows into an impaired segment of the same waterbody).

Response: See response to Comment 2.

Comment 4 Part I.B.13.C.1.a.iii: DEQ should define the meaning of “accurately represent;”

Response: DEQ has revised Part I.B.13.C.1.iii as follows:

Representative Sampling: Samples shall accurately represent the daily dewatering discharge. *For purposes of this general permit, this means that samples are collected under normal operating conditions.*

Comment 5 Part I.B.13.C.1.a: the permit does not address the maintenance and retention of the dewatering sampling records as clearly detailed in the effective General Stormwater Industrial Permit #ARR000000.

Response: Please refer to Part II.B.1 and Part II.B.23 for clarification on the general permit's retention of records requirements and monitoring and reporting requirements.

Comment 6 Part II.A.2.B.: Provide definitions for "municipal operator" and "local agencies". It is unknown if these authoritative groups are the same or different;

Response: DEQ has revised Part II.A.2.B as stated below:

Upon request, the operator shall provide the SWPPP and inspection reports to the Director, EPA, or relevant state or local agencies reviewing sediment control, erosion, grading, or stormwater management plans. For stormwater discharges into an MS4 under an NPDES permit, these documents shall also be made available to the municipal operator, *defined as the city, town, county, or other public entity that owns or operates the MS4 receiving the discharge. For purposes of this paragraph, local agencies refer to state, county, or municipal departments or commissions that have regulatory or review authority related to sediment control, erosion, grading, or stormwater management.*

Comment 7 Part II.A.4.P.: The CGP does not discuss proof of certification and the extent of certification and renewal period. Also, the CGP does not discuss if proof of certification and training attendance records are to be kept with other SWPPP records.

Response: The permittee is ultimately responsible for verifying that the training content is comprehensive and enables the permittee to effectively implement the permit requirements. DEQ has added language consistent with previous CGP versions to clarify the requirements for maintaining training records in Part II.A.4.P as stated below:

The SWPPP shall identify periodic dates for such training for all personnel, and records of training shall be maintained with the SWPPP. Training records that are maintained electronically (e.g., database or digital recordkeeping system) do not need to be physically included with the SWPPP but shall be readily accessible upon request.

Comment 8 Part II.A.4.B.1.; The "Design and Maintenance Personnel" are not always the same person. For large construction sites and for many small construction sites, the designer typically is the project's engineer of record. In that case, the designer does not perform maintenance activities. Maintenance of controls is part of corrective action and is performed by personnel performing corrective action activities. "and Maintenance" should be removed from "Design and Maintenance Personnel" and "Corrective Action Personnel" should be revised to read "Maintenance and Corrective Action Personnel".

Response: DEQ has revised Part II.A.4.B to distinguish between design personnel and those responsible for maintenance and corrective actions as stated below:

Stormwater Team. The SWPPP shall identify all parties (e.g., general contractors, landscapers, project designers, inspectors) responsible for overseeing and managing all activities related to stormwater management and compliance, as detailed in *this* CGP. The *Stormwater Team* shall consist of personnel assigned to specific responsibilities critical to the effective design, installation, maintenance, and repair of stormwater controls, including pollution prevention measures that help mitigate environmental impacts.

The *Stormwater Team* shall include the following key personnel:

- 1) *Design Personnel:* Those responsible for the design of stormwater controls (including pollution prevention controls).
- 2) *Chemical Handling Personnel:* Personnel handling the application and storage of treatment chemicals (if applicable).
- 3) *Inspection Personnel:* Personnel designated to perform inspections, as required in Part II.A.4.N of this CGP.
- 4) *Maintenance and Corrective Action Personnel:* Team members responsible for the installation, maintenance, repair, and implementation of corrective actions related to stormwater controls, as outlined in Part II.A.3.

The SWPPP shall identify all *Stormwater Team personnel* and areas of responsibility for each.

Comments by PMI, a Terracon Company

Comment 9 Part I. Section 8. Posting Notice of Coverage (NOC).

- Does the Division require the posting of the NOC at the construction site upon issuance of the NOC or before construction begins?

Response: Part I.B.8.B (Posting Notice of Coverage) of the permit has been updated to clarify that the NOC for large construction sites must be posted prior to the beginning of construction activities. However, for automatic coverage sites, as defined in Part I.A.50, the NOC is not issued by DEQ but is instead available on DEQ's website. In these cases, it is the permittee's responsibility to obtain the NOC from the website and post it at the site before construction begins.

Comment 10 Part I. Section 11 Part D. Discharges into Receiving Waters with an Approved TMDL.

Discharges from a site into receiving waters for which there is an established total maximum daily load (TMDL) allocation ([tps://www.adeg.state.ar.us/water/planning/integrated/tmdl/](https://www.adeg.state.ar.us/water/planning/integrated/tmdl/)) are not eligible for coverage under this permit unless the permittee develops and certifies a SWPPP that is consistent with the assumptions and requirements in the EPA approved TMDL. To be eligible for coverage under this general permit, operators shall incorporate into their SWPPP all conditions applicable to their discharges necessary for consistency with the assumptions and requirements of the TMDL within the timeframes established in the TMDL. If a specific numeric allocation has been established that applies to the project's discharges, the operator shall incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation. If a numeric limit has been assigned to the facility, quarterly monitoring shall be submitted to DEQ demonstrating compliance with the assigned Waste Load Allocation established in the TMDL. Please note that

DEQ will be reviewing this information. If it is determined that the project will discharge into a receiving stream with a TMDL, then DEQ may require additional BMPs.

- *Does the Division plan to alert those project sites that this provision applies to?*
- *Does the Division plan on incorporating the TMDL questions into the SWPPP September 9, 2025 2 template?*
- *Does the Division think that this requirement will add time to the 10 day turnaround time if added to the permit?*
- *What happens if the TMDL establishes that there is no additional capacity in the receiving stream? What will be done then?*

Response: Discharges from a construction site into a receiving water for which an EPA-approved TMDL has been established are not eligible for coverage under this permit unless the permittee develops and certifies a SWPPP that is consistent with the assumptions and requirements of the applicable TMDL. Operators must incorporate all TMDL-related conditions and any assigned waste load allocations into their SWPPP to ensure compliance.

DEQ does not issue separate notifications to permittees regarding TMDL applicability. It is the permittee's responsibility to determine whether discharges from their site enter a receiving water with an approved TMDL. Information provided by the permittee regarding TMDLs is reviewed by DEQ as a part of the review process, and DEQ may require revisions to the SWPPP as necessary to ensure consistency with applicable TMDL requirements. This information is publicly available on DEQ's website at <https://www.adeq.state.ar.us/water/planning/integrated/tmdl/>.

DEQ's approved SWPPP template already includes questions regarding TMDLs in Section D.

This provision is not expected to affect the ten-day review timeframe for complete Notices of Intent (NOIs), as the requirement applies to the permittee's SWPPP development prior to NOI submittal.

If an approved TMDL establishes that the receiving water has no remaining capacity, DEQ will evaluate the project's potential discharges on a case-by-case basis. In such cases, the operator may be required to implement additional or enhanced BMPs or obtain coverage under an individual NPDES permit if compliance with the TMDL cannot be demonstrated under the general permit.

Comment 11 Part I. Section 11 Part F. Discharges into an Extraordinary Resource Water (ERW), Natural and Scenic Waterway (NSW), or Ecologically Sensitive Waterbody (ESW).

Construction site discharges located within the watershed of an Outstanding Resource Water, as defined by APC&EC Rule 2.203, now codified in 8 CAR Part 21-203, including ERWs, NSWs, or ESWs, are not eligible for coverage under this CGP unless the permittee develops and certifies a SWPPP that includes additional BMPs to prevent, to the maximum extent possible, exposure of pollutants to precipitation and stormwater that could impact water quality. For this CGP, an Outstanding Resource Water's watershed will be identified by the United States Geological Survey's twelve (12)-digit Hydrological Unit Code (HUC). DEQ will review this information and, if the site discharges to an ERW, NSW, or ESW, may impose additional requirements.

- *Can DEQ provide more details on the information needed to be covered in the additional documentation?*

Response: Review of construction site discharges within the watershed of an Extraordinary Resource Water (ERW), Natural and Scenic Waterway (NSW), or Ecologically Sensitive Waterbody (ESW) is conducted on a case-by-case basis. The specific additional documentation and BMPs required will depend on the nature of the proposed activity, site characteristics, and potential for pollutant exposure or impact to the receiving waterbody. Permit applicants are expected to provide sufficient detail in the SWPPP to demonstrate how exposure of pollutants to stormwater will be minimized to the maximum extent possible. DEQ will evaluate the adequacy of the SWPPP and may require additional measures where necessary to ensure protection of water quality.

Comment 12 Part I Section 13 Part C. Dewatering.

Discharges from dewatering activities, including those from dewatering of trenches and excavations, are prohibited unless managed with appropriate controls. There shall be no turbid discharges to waters of the state resulting from these activities. If trench or groundwater contains sediment, it shall pass through a sediment settling pond or another equally effective sediment control device before being discharged from the construction site.

- *Does the Division plan to include these questions in the SWPPP template and the inspection form?*

Response: DEQ will include dewatering-related questions and requirements in the SWPPP template and inspection form to promote consistency in documentation and evaluation.

Comments by Gregory Ewanitz, Lennar

Comment 13 Part I, Section A of the draft CGP includes the following definitions:

3. ***“Best Management Practices (BMPs)”*** means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices aimed at preventing or reducing the discharge of pollutants into waters of the state. BMPs also include treatment requirements, operational procedures, and measures designed to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas. According to the EPA BMP manual, the use of hay bales in concentrated flow areas is not recommended as a BMP.
7. ***“Control Measure”*** as used in this CGP, means any BMPs or other method used to prevent or reduce the discharge of pollutants to waters of the state.

DEQ’s inclusion of the term ***Control Measure*** in the draft CGP is duplicative and the definition for a Control Measure does not explicitly provide any greater distinction than the definition for Best Management Practices. Additionally, the draft CGP is inconsistent with the use of both terms, Control Measure and Best Management Practices. For example, the term Best Management Practices or BMPs is used 23 times in the draft CGP, with the term Control Measure being used 10 times. Additionally, DEQ included the following in Item No. 7 in the Draft Fact Sheet and Supplementary Information for General Permit ARR150000 Stormwater Runoff Associated with Construction Sites in Arkansas:

DEQ has determined that BMPs, when properly selected, installed, implemented, and maintained, do provide effluent quality that can meet WQS based on 40 C.F.R. §122.44(k).

Therefore, it is recommended that the draft CGP be **modified** to replace all uses of the term Control Measure with Best Management Practices or BMPs, and the definition of Control Measure be **deleted in its entirety** from Part I, Section A of the draft CGP as follows:

7. “Control Measure” as used in this CGP, means any BMPs or other method used to prevent or reduce the discharge of pollutants to waters of the state.

Response: DEQ has revised the general permit. All instances of the term “Control Measure” have been replaced with “Best Management Practices” or “BMPs” for consistency throughout the permit. The definition of “Control Measure” has been removed from Part I.A.

Comment 14 Part I, Section A of the draft CGP includes the definition of Cognizant Official as follows:

4. “Cognizant Official” means a duly authorized representative, as defined in Part II.B.9.B.

The draft CGP including the additional term of Cognizant Official only to then define it as “...means a duly authorized representative...” is redundant and causes confusion to the regulated community. Has DEQ provided the regulated community with the reason for not simply using the term Duly Authorized Representative in the draft CGP and other related documents (e.g., Notice of Intent, Permit Transfer form, SWPPP certification)? For consistency and clarity, we request that the draft CGP be **modified** to only use the term Duly Authorized Representative throughout and the definition of Cognizant Official be **deleted** in its entirety from Part I, Section A of the draft CGP as follows:

4. “Cognizant Official” means a duly authorized representative, as defined in Part II.B.9.B.

Response: The term “Cognizant Official” has been used consistently across multiple DEQ permits and associated forms to maintain uniformity in permit administration and document processing. While the definition references a “duly authorized representative,” retaining the term “Cognizant Official” provides consistency with existing permits and ensures alignment with terminology used throughout other DEQ permitting programs.

Comment 15 The cover page of the draft CGP states the following:

Operator of Facilities with Stormwater Discharges Associated with Construction Activity is authorized to discharge to all receiving waters except as stated in Part I.B.11 (Exclusions).

Additionally, Part I, Section A defines the following:

16. “Discharge” when used without qualification, means the “discharge of a pollutant”
54. “Stormwater Pollution Prevention Plan (SWPPP or SWP3)” means a plan that includes site map(s), an identification of construction/contractor, the stormwater team, activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

However, Part I.B.13.C states the following:

Dewatering. Discharges from dewatering activities, including those from dewatering of trenches and excavations, are prohibited unless managed with appropriate controls. There shall be no

turbid discharges to waters of the state resulting from these activities. If trench or groundwater contains sediment, it shall pass through a sediment settling pond or another equally effective sediment control device before being discharged from the construction site.

The above text from Part I.B.13.C conflicts with the draft CGP. The CGP does not prohibit the discharge of pollutants but rather intends to minimize or control the discharge of pollutants to waters of the State. The inclusion of the requirement “...shall be no turbid discharges to waters of the state...” is an impossible standard as all surface waterbodies have some level of suspended solids or turbidity. Therefore, we request that Part I.B.13.C of the draft CGP be **modified** as follows:

Dewatering. Discharges from dewatering activities, including those from dewatering of trenches and excavations, are prohibited unless managed with appropriate controls. ~~There shall be no turbid discharges to waters of the state resulting from these activities.~~ If trench or groundwater contains sediment, it shall pass through a sediment settling pond or another equally effective sediment control device before being discharged from the construction site.

Response: The intent of this provision is not to prohibit all discharges containing any level of turbidity, but rather to prevent excessively turbid or sediment-laden discharges resulting from dewatering activities from reaching waters of the state. The CGP has been revised to better align with the intent and terminology of EPA’s 2022 CGP, which requires dewatering discharges to be managed with appropriate controls and to be free of visible pollutants, including excessively turbid water, to the extent practicable. This revision clarifies that the requirement is intended to address excessive turbidity caused by inadequate dewatering or associated sediment control practices and is not intended to establish an absolute prohibition on any level of turbidity that may naturally occur in surface waters.

Part I.B.13.C has been revised to state:

Dewatering. Discharges from dewatering activities, including those from dewatering of trenches and excavations, are prohibited unless managed with appropriate controls. These discharges must be free of visible turbidity and managed to minimize the discharge of pollutants to waters of the State. If trench or groundwater contains sediment, it shall pass through a sediment settling pond or another equally effective sediment control device before being discharged from the construction site.

Comment 16 Part II.A.2.A of the draft CGP states the following:

The SWPPP and all inspection reports shall be signed by the responsible official or a duly authorized representative as specified in Part II.B.9. These documents shall be kept on-site during regular business hours (8:00 A.M. – 5:00 P.M.) and inspections conducted as outlined in Part II.A.4.N.

The requirement to keep a copy of the Stormwater Pollution Prevention Plan (“SWPPP”) and all inspection reports onsite during regular hours is an unnecessary administrative task that is overly burdensome to the regulatory community, without providing any environmental benefit. The 2022 U.S. Environmental Protection Agency (“EPA”) CGP affords the use and electronic retention of the SWPPP and inspection reports.

Part 7.3 of the EPA CGP states: *You must keep a current copy of your SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by EPA; a State, Tribal, or local agency approving stormwater management plans; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS).*⁹³

⁹³ *The SWPPP may be prepared, 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. For additional guidance on the proper practices to follow for the electronic retention of the SWPPP, refer to the Fact Sheet discussion related to Part 4.7.3.*

Part 4.7.3 of the EPA CGP states: *You must keep a copy of all inspection reports at the site or at an easily accessible location, so that it can be made immediately available at the time of an on-site inspection or upon request by EPA.*⁷⁷

⁷⁷ *Inspection reports may be prepared, 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. For additional guidance on the proper practices to follow for the electronic retention of inspection report records, refer to the Fact Sheet discussion related to Part 4.7.3.*

Many permittees and third-party inspection firms that work in Arkansas use online inspection management software tools. These online systems allow the permittees to keep the inspection reports in electronic form until there is a need to print off a hard copy. This prevents the permittees from wasting resources by having to unnecessarily print hard copies of the same inspection report. Therefore, we recommend that Part II.A.2.A of the draft CGP be modified as follows:

The SWPPP and all inspection reports shall be signed by the responsible official or a duly authorized representative as specified in Part II.B.9. These documents shall be kept on-site during regular business hours (8:00 A.M. – 5:00 P.M.) or at an easily accessible location, so that they can be made immediately available at the time of an onsite inspection or upon request by the Department. The SWPPP and inspection reports may be prepared, 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. ~~and~~ inspections shall be conducted as outlined in Part II.A.4.N.

Response: While DEQ recognizes the efficiencies provided by electronic recordkeeping systems, it remains necessary to ensure that the SWPPP is physically maintained on-site for ease of reference and immediate accessibility to site personnel, contractors, and inspectors during construction activities. Maintaining a physical copy on-site supports consistent implementation of stormwater controls and allows all parties to verify permit compliance without reliance on electronic systems that may be unavailable due to technical or connectivity issues. The CGP has

been revised to clarify that a physical SWPPP must be maintained on-site, but inspection reports may be retained electronically provided they meet the accessibility and reliability requirements as outlined in the CGP.

Part II.A.2.A has been revised to state:

A. The SWPPP and all inspection reports shall be signed by the responsible official or a duly authorized representative as specified in Part II.B.9. *A physical copy of the SWPPP shall be maintained on-site during regular business hours (8:00 A.M. – 5:00 P.M.) and made readily available to site personnel and inspectors. Inspection reports may be prepared, signed, and retained electronically, rather than in paper form, provided the records are:*

- 1) *In a format that can be read in a similar manner as a paper record;*
- 2) *Legally dependable with no less evidentiary value than their paper equivalent; and*
- 3) *Immediately accessible to the inspector during an on-site inspection to the same extent as a paper copy stored at the site would be.*

Inspections shall be conducted as outlined in Part II.A.4.N.

Comment 17 Part II.A.4.B further explains the identification of the Stormwater Team in the SWPPP; however the use of the term *Responsible Parties* is confusing with respect to the following defined term in the draft CGP:

46. “Responsible Official” means the authorized representative, as defined in Part II.B.9.A. Therefore, we request that Part II.A.4.B be modified as follows:

~~*B. Responsible Parties (Stormwater Team). The SWPPP shall identify all parties (e.g., general contractors, landscapers, project designers, inspectors) responsible for overseeing and managing all activities related to stormwater management and compliance, as detailed in the CGP. The Responsible Parties (Stormwater Team) shall consist of personnel assigned to specific responsibilities critical to the effective design, installation, maintenance, and repair of stormwater controls, including pollution prevention measures that help mitigate environmental impacts. The Responsible Parties (Stormwater Team) shall include the following key personnel:*~~

- 1) *Design and Maintenance Personnel: Those responsible for the design, installation, maintenance, and repair of stormwater controls (including pollution prevention controls).*
 - 2) *Chemical Handling Personnel: Personnel handling the application and storage of treatment chemicals (if applicable).*
 - 3) *Inspection Personnel: Personnel designated to perform inspections, as required in Part II.A.4.N of this CGP.*
 - 4) *Corrective Action Personnel: Team members responsible for corrective actions, as outlined in Part II.A.3.*
- ~~*The SWPPP shall identify all Responsible Parties (Stormwater Team) personnel and areas of responsibility for each.*~~

Response: To prevent confusion with the use of the term “Responsible Parties” and the defined term “Responsible Official” in Part II.B.9.A of the CGP, the CGP has been revised to remove the term “Responsible Parties” and instead refer solely to the “Stormwater Team.”

Part II.A.4.B has been revised to state:

Stormwater Team. The SWPPP shall identify all parties (e.g., general contractors, landscapers, project designers, inspectors) responsible for overseeing and managing all activities related to stormwater management and compliance, as detailed in *this* CGP. The *Stormwater Team* shall consist of personnel assigned to specific responsibilities critical to the effective design, installation, maintenance, and repair of stormwater controls, including pollution prevention measures that help mitigate environmental impacts.

The *Stormwater Team* shall include the following key personnel:

- 1) *Design Personnel:* Those responsible for the design of stormwater controls (including pollution prevention controls).
- 2) *Chemical Handling Personnel:* Personnel handling the application and storage of treatment chemicals (if applicable).
- 3) *Inspection Personnel:* Personnel designated to perform inspections, as required in Part II.A.4.N of this CGP.
- 4) *Maintenance and Corrective Action Personnel:* Team members responsible for the installation, maintenance, repair, and implementation of corrective actions related to stormwater controls, as outlined in Part II.A.3.

The SWPPP shall identify all *Stormwater Team personnel* and areas of responsibility for each.

Comment 18 The site map requirements are listed in Part II.A.4.H of the draft CGP which includes the following:
9) *Waters of the State and Buffers: Identify the location(s) of waters of the state, associated natural buffer boundaries, and available floodplain and floodway boundaries.*

We request that Part II.A.4.H.9 be **modified** to provide guidance to the regulated community on the extent this mapping item needs to be identified as follows:

9) *Waters of the State and Buffers: Identify the location(s) of waters of the state, associated natural buffer boundaries, and available floodplain and floodway boundaries that are onsite or directly adjacent to the project.*

Response: DEQ has revised Part II.A.4.H.9 to state the following:

Waters of the State and Buffers: Identify the location(s) of waters of the state, associated natural buffer boundaries, and available floodplain and floodway boundaries located onsite or directly adjacent to the project area.

Comment 19 The cover page of the draft CGP states the following:

Operator of Facilities with Stormwater Discharges Associated with Construction Activity is authorized to discharge to all receiving waters except as stated in Part I.B.11 (Exclusions).
Additionally, Part I, Section A defines the following:

16. **“Discharge”** when used without qualification, means the “discharge of a pollutant”.
54. **“Stormwater Pollution Prevention Plan (SWPPP or SWP3)”** means a plan that includes site map(s), an identification of construction/contractor, the stormwater team, activities that could

cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

However, Part II.A.4.I.1.b of the draft CGP states the following:

b. Retention of Sediment On-Site: Erosion and sediment controls, such as site stabilization and check dams, shall be designed to retain sediment on-site to the extent practicable.

The above text from Part II.A.4.I.1.b conflicts with the draft CGP. The CGP does not prohibit the discharge of pollutants but rather intends to minimize or control the discharge of pollutants to waters of the State. The inclusion of the requirement “...shall be designed to retain sediment on-site...” is an impossible standard as erosion and sedimentation are significant components of the natural environment. Therefore, we request that Part II.A.4.I.1.b of the draft CGP be **modified** as follows:

b. ~~Prevent Retention of~~ Discharge of Sediment ~~Off-Site On-Site~~: Erosion and sediment controls, such as site stabilization and check dams, shall be designed to ~~retain~~ prevent the discharge of sediment ~~off-site onsite~~ to the extent practicable.

Response: The phrase “retain sediment on-site to the extent practicable” establishes a performance-based design standard that focuses on implementing and maintaining appropriate erosion and sediment controls to minimize discharges, rather than prohibiting them outright. This wording provides a clear, enforceable, and achievable expectation that aligns with the overall purpose of the permit to control, not eliminate, the discharge of pollutants associated with construction activity.

Comment 20 Part II.A.4.I.1.d of the draft CGP states the following:

d. Removal of Off-Site Sediment: Any sediment that escapes the construction site shall be removed before the next business day to minimize off-site impacts (e.g., sediment in the street could enter storm sewers with the next rain or pose a safety hazard to public street users). This permit does not give the authority to trespass onto other property. Therefore, the permittee shall obtain permission from neighboring landowners for off-site sediment removal.

The draft CGP is imposing a requirement that is not achievable by the regulated community. Stating that the permittee has until “...before the next business day...” to remove any sediment that escaped the construction site, and that “...the permittee shall obtain permission from neighboring landowners for off-site sediment removal.” is a burdensome obligation and likely not in the control of the permittee. For example, the adjacent landowner may be an absentee owner, which is an individual, corporation, or entity that owns the adjacent property but that is not physically present on the property. It could be days or weeks before the permittee is able to contact an absentee owner. The proposed language in Part II.A.4.I.1.d is unachievable and will entrap the permittee into non-compliance with the CGP for a condition that is not in the control of the permittee. Therefore, we request Part II.A.4.I.1.d for the draft CGP be **modified** as follows:

Removal of Off-Site Sediment: Any sediment that escapes the construction site shall be removed ~~as soon as possible~~ ~~before the next business day~~ to minimize off-site impacts (e.g., sediment in the street could enter storm sewers with the next rain or pose a safety hazard to public street users). This permit does not give the authority to trespass onto other property. Therefore, the permittee

shall obtain permission from neighboring landowners for off-site sediment removal.

Response: DEQ acknowledges the commenter’s concern regarding the challenges of removing off-site sediment “before the next business day,” particularly when access to adjacent properties depends on obtaining permission from absentee landowners. However, the requirement for prompt removal remains essential to minimize the risk of sediment entering storm sewer systems, impacting downstream water quality, or creating safety hazards on public roadways.

Because one purpose of this provision is to ensure that sediment is adequately controlled such that it does not cause a nuisance to other property owners, DEQ has determined that no change to the draft language is warranted. The existing requirement reinforces the importance of designing, installing, and maintaining effective BMPs that prevent off-site sedimentation and avoid situations in which access to neighboring property becomes necessary.

Comment 21 Part II.A.4.N.1.b of the draft CGP states the following:

b. At least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event of 0.25 inches or greater. A rain gauge shall be maintained on-site.

The requirement that a rain gauge “...shall be maintained...” is antiquated, may not provide accurate data, and does not afford the permittees the ability to use easily accessible data available from an online weather service. In addition, Part 4.2.3.a of the 2022 EPA CGP states the following: *For rain, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location.*

Therefore, we request that Part II.A.4.N.1.b of the draft CGP be modified as follows:

*b. At least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event of 0.25 inches or greater. **For rain, A rain gauge shall be maintained onsite you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location.***

Response: DEQ has revised Part II.A.4.N.1.b to state the following:

b. At least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event of 0.25 inches or greater. *The operator shall measure rainfall by either a properly maintained rain gauge installed on-site, a weather station located within one (1) mile of the site, or a weather reporting system that provides site-specific rainfall data from radar summaries. For any 24-hour period during which 0.25 inches or more of rainfall occurs, the total rainfall measured or reported shall be recorded in accordance with the inspection requirements. The location of the rain gauge, address of the weather station, or weather reporting system used shall be included with the SWPPP.*

Comment 22 Part II.A.4.N.2.k of the draft CGP states the following:

k. Signature of Qualified Signatory Official (in accordance with Part II.B.9)

The term Qualified Signatory Official is not defined in the draft CGP and is duplicative to existing terminology in Part II.B.9 of the draft CGP. Therefore, we request that Part II.A.4.N.2.k of the draft CGP be **modified** as follows:

k. Signature of the Operator or duly authorized representative ~~Qualified Signatory Official~~ (in accordance with Part II.B.9.B)

Response: To maintain consistency and clarity, Part II.A.4.N.2.k has been revised to state the following:

Signature of the responsible official or duly authorized representative (in accordance with Part II.B.9)

Comment 23 Part II.A.4.O of the draft CGP states the following:

O. Maintenance. The SWPPP shall include a description of procedures to maintain vegetation, erosion and sediment control measures, and other protective measures in good and effective operating condition. Any necessary repairs identified during inspections shall be completed, when practicable, before the next storm event and no later than three (3) business days from the time of discovery, unless otherwise directed by state or local officials. If conditions do not allow for the use of large equipment, a longer timeframe may be permitted, provided that the delay is thoroughly documented on the inspection form.

The requirement for the regulated community to complete all maintenance items "...not later than three (3) business days from the time of discovery..." does not afford the permittees an adequate amount of time to complete onsite maintenance. Stormwater BMP maintenance companies often work on a set schedule following regular BMP inspection days, and likely have multiple clients (permittees) that they perform work for. Allowing the permittees more time to complete the maintenance is a more achievable requirement since it affords more time for the BMP maintenance companies to complete the maintenance for all their clients. Therefore, we request that Part II.A.4.O of the draft CGP be **modified** as follows:

*O. Maintenance. The SWPPP shall include a description of procedures to maintain vegetation, erosion and sediment control measures, and other protective measures in good and effective operating condition. Any necessary repairs identified during inspections shall be completed, when practicable, before the next storm event and no later than **seven (7) ~~three (3)~~ business calendar** days from the time of discovery, unless otherwise directed by state or local officials. If conditions do not allow for the use of large equipment, a longer timeframe may be permitted, provided that the delay is thoroughly documented on the inspection form.*

Response: The deadline of three (3) business days is to ensure timely correction of deficiencies and to minimize the potential for off-site impacts to waters of the state. If the originally installed BMP is not immediately available for repair or replacement, the permittee may install an alternative, functionally equivalent BMP as a temporary measure (e.g., silt sock or other appropriate control) until the permanent BMP can be installed. Therefore, the requested change to extend the timeframe to seven (7) calendar days will not be made.

To address situations where meeting the three (3) business day requirement is not feasible, Part II.A.4.O has been revised to state the following:

O. Maintenance. The SWPPP shall include a description of procedures to maintain vegetation, erosion and sediment BMPs, and other protective measures in good and effective operating condition. Any necessary repairs identified during inspections shall be completed, when

practicable, before the next storm event and no later than three (3) business days from the time of discovery, unless otherwise directed by state or local officials. *If it is infeasible to complete the installation or repair within the 3-day timeframe, you must document in your records the reason for the delay, along with a schedule for completing the work and making the stormwater control(s) operational as soon as feasible. Where these actions result in changes to any stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly.* If conditions do not allow for the use of large equipment, a longer timeframe may be permitted, provided that the delay is thoroughly documented on the inspection form.

Comment 24 We request that Part II.A.5 of the draft CGP be **modified** as follows:

5. Plan Certification. *The SWPPP Certification shall be signed by either the responsible official or the **duly authorized representative** ~~cognizant official~~ identified on the NOI. All documents required by the permit and any additional information requested by the Director shall also be signed by the operator or a duly authorized representative of the operator (refer to Part II.B.10 below for certification details).*

Response: The term “cognizant official” is used throughout the Notice of Intent (NOI) process and associated forms, and maintaining this terminology in the permit ensures consistency between the permit requirements and the NOI. For clarity and alignment with existing NOI terminology, Part II.A.5 will remain unchanged.

Comments by Richard Howe, Earthworks Environmental, LLC

Comment 25 Part II Section 2, A - EPA has altered the national General Permit to allow electronic records as it is more efficient to ensure that the most up to date records are present. Many inspections, reports, logs, maps etc are maintained electronically to ensure legibility and to capture state specific requirements.

Please consider altering to the following:

A. The SWPPP and all inspection reports shall be signed by the responsible official or a duly authorized representative as specified in Part 11.13.9. These documents shall be *maintained or available electronically on-site* during regular business hours (8:00 A.M. — 5:00 P.M.) and inspections conducted as outlined in Part II.A.4.N.

Response: Please see response to Comment 16.

Comment 26 Part II Section 4, N - Requirement to use a rain gauge onsite. There are several different options that produce reliable rain data and as long as within a reasonable distance of the site, the data can be checked by regulating agencies to ensure inspections are conducted when needed.

Also please consider altering the 0.25 inch rain total to 0.5. Industry standard across the nation is almost always 0.5 inch including the EPA permit

Please consider altering to the following:

1) Inspection Frequency: Inspections shall be conducted according to one of the following schedules, which shall be specified in the SWPPP:

- a. At least once every seven (7) calendar days, or
- b. At least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event of 0.5 inches or greater. *Rainfall shall be measured by either a properly maintained rain gauge installed on-site, a weather station that is within one (1) mile of your location, or a weather reporting system that provides site specific rainfall data from radar summaries*

Response: The 0.25-inch threshold will remain, as this is consistent with the U.S. EPA's 2022 Construction General Permit (CGP) and the previous version of this permit, and provides a level of environmental protection appropriate for identifying storm events that may result in stormwater discharges from construction sites. Increasing the threshold to 0.5 inches would reduce inspection frequency, but it also increases the risk of unnoticed BMP failure between inspections. This would potentially lead to violations, off-site sedimentation, or enforcement actions if discharges occur.

See response to Comment 21 regarding installation of a rain gauge.

Comment 27 Part II Section 4, 0 - The requirement to complete items within 3 business days changed to 7 days. Seven days is a general timeframe accepted by many states as well as the federal CGP. Please consider altering to the following:

O. Maintenance. The SWPPP shall include a description of procedures to maintain vegetation, erosion and sediment control measures, and other protective measures in good and effective operating condition. Any necessary repairs identified during inspections shall be completed, when practicable, before the next storm event and no later than *seven (7)* calendar days from the time of discovery, unless otherwise directed by state or local officials. If conditions do not allow for the use of large equipment, a longer timeframe may be permitted, provided that the delay is thoroughly documented on the inspection form.

Response: See response to Comment 23.

Comment 28 Lastly in many states, it is permissible to reduce the inspection frequency once the site is stabilized and all activity complete or suspended. This frequency is typically monthly or once every 30 days. In some cases, a site may have erosion control blanket stabilizing the site however it may take months for the seed to germinate to grass at a consistency that the site permit may be closed.

Consider this excerpt from the neighboring state Oklahoma CGP

C. Reductions in Inspection Frequency. You may reduce the frequency of inspections to once per month in areas of your site where you have initiated vegetative stabilization that meets the criteria in Part 3.3.2.A, once you have completed the initial seeding or planting, and provided protection with non-vegetative cover pursuant to Part 3.3.2.B.2, or you have installed temporary, non-vegetative stabilization that meet the criteria in Part 3.3.2.B.2. If construction activity resumes at a later date, the inspection frequency shall immediately increase to that is required in Part 4.3.13.B.

Response: DEQ has revised Part II.A.4.N to include the following:

The operator may reduce the frequency of inspections to twice per month, with no more than 14 calendar days between inspections, for the first month following completion of final stabilization in any portion of the site. After this initial month, inspections for that portion of the site may be

further reduced to once per month until permit coverage is terminated. If construction activity resumes in any portion of the site where inspection frequency has been reduced, the inspection schedule shall immediately revert to the frequency required under this section. The operator must document in the SWPPP the beginning and ending dates of each period when the reduced inspection frequency applies.

DEQ Comment: DEQ revised Part 1.B.12 to note that Short Term Activity Authorizations must now be submitted through SEEK or a successor system as well as added contact information for questions regarding STAAs or Individual 401 certifications.