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General Background

The Department issued the General Permit for Discharges from Stormwater Associated with Construction Activity (the 20-CP), effective April 1, 2023. Operators must have coverage under the State's General Permit, for projects that will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land.

General NOI Questions

What's New?

For a good overview, read the [20CP Public Notice of Tentative Determination](#).

Who Should Apply?

An "operator" of a construction site for which discharges will be covered under this permit.

For the purposes of this permit and in the context of stormwater discharges associated with construction activity, an "operator" is any party associated with a construction project that meets either of the following two criteria:

- a. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., in most cases this is the owner of the site); or
- b. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions including authorization to direct workers at a site to carry out activities required by the permit, correct violations (including repair or installation of erosion and sediment controls (E&SC)), and/or halt construction activity until violations of the permit are corrected; in most cases this is the general contractor (as defined in Appendix A) of the project).

Where there are multiple operators associated with the same project, all operators must obtain permit coverage. If the operator of a "construction support activity" (Part I.C.1.c) is different than the operator of the main site, that operator must also obtain permit coverage. See Stormwater

Pollution Prevention Plan (SWPPP) Part III.F for clarification on the sharing of permit-related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site. Subcontractors generally are not considered operators for the purposes of this permit.

A helpful flow chart is laid out in a separate document found on our website [here](#) and is useful to assist in deciding if you are an operator.

When to Apply?

The deadline for 14GP permittees to continue coverage under the 20-CP was within 6 months after the April 1, 2023 effective date (no later than September 30, 2023). Other deadlines for coverage are found in the permit in Part II, Table 1, of the 20-CP permit. All new operators must submit a new NOI and provide the required documentation for coverage under the 20-CP.

How do I submit my NOI and documentation?

Submissions are through the online [ePermits](#) system for discharges associated with construction activity.

What is the expected turnaround time for my authorization to be granted?

Typically, you should anticipate a 45 day turnaround time from NOI submission to MDE until the general permit authorization is granted. The Industrial Stormwater Permits Division (ISPD) will review the NOI for accuracy and completeness within 1 to 2 business days of submission to ePermits. After MDE review, the NOI is promptly posted to public notice or returned for corrections. Complete applications are approved for post to public notice on the ePermits website for 14 calendar days. ePermits sends a confirmation email notification when the public notice period begins.

Operators working in Tier II watersheds should anticipate increased turnaround times. These environmentally sensitive areas require additional review for construction permitting and operators must provide additional supporting documentation. Areas with remaining assimilative capacity (shaded green on [Maryland's Tier II High Quality Waters \(2021\)](#)) must complete the [Appendix C - Antidegradation Checklist](#) and upload the checklist with the application. Operators working in Tier II areas without assimilative capacity (shaded orange on [Maryland's Tier II High Quality Waters \(2021\)](#)) must contact the [MDE Tier II Review Division](#) to complete an Antidegradation Review. The Tier II Review Division will issue a determination letter when the Antidegradation Review is complete - this letter must be uploaded with your 20-CP application.

Extended public notice: Effective October 1, 2023, operators in certain environmentally sensitive areas may have the NOI public notice period extended to 60 days. Projects 5 acres or more located in the floodplain, Critical Area, or Tier II watershed are subject to the extension if the Department receives a written request.

Are Architectural/Design firms allowed to sign into MDE ePermits for a Gov agency as part of a Gov contract?

Yes, as an NOI 'Preparer', but not as a 'Signatory', unless the design firm has their own permit. A design firm can submit an NOI and transfer the issued authorization. The ePermits site has an option for signatories to 'Give Access' to another user's email address. 'Give Access' allows another user to manage and modify the NOI, similar to the signatory. Previously entered payment information in the account is not visible to users with 'Give Access' and users granted access can not terminate the NOI.

How do I terminate coverage prior to final stabilization, if there are additional phases of construction following my work?

An operator may complete their contract obligations, such as initial grading, as long as there is an agreement of final stabilization to be completed by other operators within the project area. The stabilization plan must be part of your SWPPP and agreed upon by all operators involved. In these cases, we suggest involving an inspector to understand the plan prior to submitting your Notice of Termination.

Will incomplete authorization requests under the 14-GP be required to go through an additional public notification period?

All 14-GP NOIs that did not start the 20-CP continuation process by September 30, 2023 were auto-terminated in ePermits on October 11, 2023. Continuation applications in processing that were not completed by January 9, 2024 were auto-terminated in ePermits. Any active project covered under the 14-GP, not continued under the 20-CP by the deadline, must submit a new NOI for coverage under the 20-CP (subject to the fee structure and public notice period).

Should the NOI be modified to reduce the disturbance coverage when partial site construction is complete and stabilized?

No, the NOI states the maximum area of disturbance and doesn't need to be reduced. The SWPPP site map should be updated to be consistent with the remaining active work areas. However, once the project is complete the Notice of Termination must be submitted.

If you submit an NOI and don't list flocculant as something that you'll use, but wind up having to use it, what is the process?

The permit provides the process for this in Part II. This is considered a modification and is an amendment to your NOI. For use of any approved cationic chemical additive must be submitted a week prior to use. All other amendments must be submitted within 7 days of the change.

Dewatering

What is dewatering?

Dewatering is defined in the Appendix A. Further clarification can be

found in the [2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control](#) which provides the dewatering practices under section F.

If you are dewatering onsite and there is no discharge point, is sampling and recording necessary?

For turbidity benchmark monitoring to apply, the project must be located in a Tier II watershed or discharge in a watershed where the receiving waters are impaired for sediment (or another contaminant believed to be present on site). Turbidity benchmark monitoring is required when dewatering results in a discharge from the site. See the EPA's [Inspection and Monitoring Guide for Construction Dewatering](#).

Is turbidity monitoring required if dewatering is, first, to a sediment basin? ...or only if the dewatering discharge is directly to a storm system that discharges offsite or to a stream?

If dewatering to a basin, and the volume being pumped to the basin doesn't result in a discharge, then turbidity benchmark monitoring isn't required. Think of the benchmark monitoring as a speedometer in a car. The benchmark provides a numerical reading that tells you when to take a corrective action. Discharges with 150 NTUs or more at any given time or a weekly average more than 50 NTUs means stop/slow down pumping. See the EPA's [Inspection and Monitoring Guide for Construction Dewatering](#)

Turbidity Benchmarks, Monitoring, and Inspections

Turbidity Benchmark reporting?

The 20-CP requires turbidity monitoring, reporting and corrective actions for turbidity for dewatering in watersheds that are discharging to watersheds impaired for sediments or designated as Tier II (high quality). The results of the monitoring are reported on one of the permit appendix ([20-CP Appendix D - Turbidity Reporting Form](#)) and uploaded quarterly to [ePermits](#) website. The requirements are primarily found in Part III.B.4 on Pages 25 through 27 of the [permit](#).

How would discharge monitoring work out of a filter bag?

A useful resource for dewatering is found on our website. [EPA's Inspection and Monitoring Guide for Construction Dewatering](#). The section Determine Where You Will Collect Samples (pages 5-7) covers sampling overland flow.

When to increase or decrease the inspection frequency?

Part III.C.2 through III.C.4 deal with inspection frequency. The default frequency would be either once each calendar week and after a storm event, or once every four business days. However, the permit requires more frequent inspections in Tier II waters or for dewatering. Alternatively the permit allows for reduced frequency of monitoring when areas are stabilized or in some case for

linear construction sites. Make sure to read those sections to fully understand those requirements.

What inspection form should I use?

You can use the existing [form](#) available on our website or any form meeting the inspection frequency and requirements under Part III.C. If using the current MDE form, increased inspection frequency applies, you can check the “Weekly” Type of Inspection checkbox (the date will reflect the 4 business day frequency). If you will be using your own inspection form we recommend keeping Part III.C highlighted in your available copy of the general permit on site for inspectors and site staff to easily cross reference for compliance.

Stormwater Pollution Prevention Plans (SWPPPs)

Who is required to develop a SWPPP?

As stated in Part III.F of the permit, you must develop a SWPPP if you will be using chemical additives or polymers, there will be soils or material containing toxic or hazardous substances, you will be sharing permit related functions among multiple operators on the same site, where you are exempt from E&SC plan or SWM requirements, or if the site will be implementing controls for activities identified in Part III.A.3 of the permit. This includes on-site fueling and maintenance, vehicle washing, storing materials and products on site, or applying fertilizers. There is an exception for sites that will disturb under 5 acres that will be implementing controls for only building materials (including gravel or aggregate) present on-site, fertilizer required for revegetation or concrete washout), and no other activities listed under Part III.A.3.

What are the requirements for SWPPP review and approval?

An initial SWPPP should be submitted along with your NOI. It will be received to make sure that it includes all of the required sections identified in the permit as well as any sections referring to the criteria which triggered the SWPPP requirement for your site.

Is the use of "soil cement" a trigger to have a SWPPP?

Yes. As noted in the permit, Chemical additives may only be applied where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) prior to discharge. Chemical additives for bank or soil stabilization alone, without directing it to a control would not be allowed.

Can a SWPPP satisfy individual lot typical controls, or do those controls have to be spelled out in the approved E&SC plan?

They need to be spelled out in an approved plan.

Common Plan of Development

What is a “Common Plan of Development or Sale” and how do you reference it in your NOI?

A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The “common plan” of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.

What is a shared site and how is it different from a common plan?

At a shared site multiple operators may be working on separate projects but have shared areas of responsibility (for example shared perimeter sediment controls or concrete washout structure). A common plan of development can get coverage for the entire site area and allows for multiple operators to be organized under a single plan. Single family home builders working under a common plan of development may obtain coverage under the permit with an exception to the public notification period (see Part II.B.2.). A shared site and common plan of development with multiple operators both require a stormwater pollution prevention plan (SWPPP).

Are townhomes considered Single Family?

No, single family homes must be detached residential structures.

Will every operator (contractor) working under one common plan be covered under the same permit or will each operator apply for their own permit? There are a lot of questions in the SWPPP that would need to be answered by contractors and sometimes the owner/developer may not have a contractor lined up at the time the consultants apply for the NOI...

As referenced in “**Who Should Apply**” above, there is a useful flow chart available. An owner/developer may proactively obtain permit coverage for pre-determined phases of construction. Then the developer may transfer the authorization as contractors are delegated operational control of the work areas. The SWPPP is a living document for the site and should be updated accordingly as site conditions or operations change.

Where builders were taking down lots in a finished community, we used to do partial transfers of the NOI for their acreage. Is the process with the new GP that the builder would have a separate NOI and increase their acreage with each land sale, and then the developer would reduce by that same amount?

All operators must get their own permit coverage. All operators working in a shared work site or under a common plan of development should have their areas of responsibility organized in a stormwater pollution prevention plan. Single Family Home Builders can expedite processing of

their permit coverage using the Exception to Public Notification Period; public notice for the building phase of construction would have been fulfilled under the common plan.

Tier II and Impairments

How do I determine if receiving waters are impaired and what they are impaired for?

You can determine if the receiving waters are impaired by using one of our interactive maps which can be found here: <https://mdewin64.mde.state.md.us/WSA/IR-TMDL/index.html>

You would check all or the boxes (or the specific impairment you are looking for) in the left side column and then find your site. If you click on your site's location it will tell you what impairments apply to the watershed your site falls in. Please note that the box that pops up may have multiple pages listing multiple impairments. Some of these apply to the Chesapeake Bay and some may apply to the sub-watershed you identified by basin-code number.

If you have a portion of a site that falls under a Tier II, would the entire site then be considered Tier II or would only the portion that is within the boundary?

Only the portion of the site that falls within the [Tier II](#) boundary is considered Tier II because of the watershed that portion drains to. This portion would need to be identified and delineated in your SWPPP and appropriate additional protective measures put in place for that portion of the site. If there is no assimilative capacity, then a further review would be needed by MDE.

Errors: Corrected with 20CPA:

- Part I.B.1.b – Part I.B.1.c refers to a section that doesn't exist and should refer to Part I.C.1.c.
- Part I.B.3.a – New Source Section the Part II.B.3 reference is incorrect. It should read (Part III.B)
- Part I.E.4 – New Source Section the Part II.B.3 reference is incorrect. It should read (Part III.B)
- Part II.A.8.c – Signatory Requirements for State Agency. The language missed a qualification from COMAR. "For a municipal, State, or other public agency, by either a principal executive officer, ranking elected official, or other duly authorized employee;" That underlined clarification was missing in the permit.
- Changes in Signatory or Duly Authorized Representative - refers to Part II.C.3; there is no such section. This should be Part II.D Transfers
- Part III.B.4.a.iii – A reference to an "Appendix G (standard permit conditions), Part IV.K.". However, Appendix G doesn't exist. This section is in regard to "representative samples" for the Turbidity Monitoring requirements. It should have been an added standard permit term in Part IV.K. The term should have been "Representative Samples are samples and measurements taken for the purpose of monitoring shall be representative of the monitored

activity.”

- Appendix D – second full sentence. “To be compliance you must” should be updated to “To be in compliance you must”.
- Appendix D Instructions – Completing the Form. The Completing the Form Instructions indicates the original monitoring form is to be submitted to the appropriate address. This contradicts Part III.B.4.d.iv which indicates the monitoring form must be submitted via the ePermits system. This should be to ePermits.

Another good reference for FAQ, as this permit is similar to EPA’s CGP: [Frequent Questions on EPA's Construction General Permit](#)

Contact Information

More Questions? Our Contact Information for the Industrial Stormwater Permits

Division...For General Permit Questions call (410) 537-3323 or email Jennifer Nitsch at jennifer.nitsch@maryland.gov or Paul Hlavinka at paul.hlavinka@maryland.gov. Questions with the NOI process may be directed to.(410) 537-3019.