

Proposed 2027 Construction General Permit (CGP) – Fact Sheet

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I. Background

Congress passed the Federal Water Pollution Control Act of 1972 (Public Law 92-500, October 18, 1972) (hereinafter the "Clean Water Act" or "CWA"), 33 U.S.C. 1251 et seq., with the stated objectives to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA provides that "the discharge of any pollutant by any person shall be unlawful" except in compliance with other provisions of the statute. CWA section 301(a), 33 U.S.C. 1311. The CWA defines "discharge of a pollutant" broadly to include "any addition of any pollutant to navigable waters from any point source." CWA section 502(12), 33 U.S.C. 1362(12). EPA is authorized under CWA section 402(a) to issue a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of any pollutant from a point source. These NPDES permits are issued by EPA regional offices or NPDES-authorized State or Tribal agencies. Since 1972, EPA and the authorized States have issued NPDES permits to thousands of dischargers, including industrial (e.g., manufacturing, energy and mining facilities) and municipal (e.g., sewage treatment plants) facilities. As required under Title III of the CWA, EPA has promulgated Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for many industrial point source categories, and these requirements must be incorporated into NPDES permits. 33 U.S.C. 1311(b). The Water Quality Act (WQA) of 1987 (Public Law 100-4, February 4, 1987) amended the CWA, adding CWA section 402(p), requiring implementation of a comprehensive program for addressing stormwater discharges. 33 U.S.C. 1342(p).

A. Clean Water Act Stormwater Program

Prior to the Water Quality Act of 1987, there were numerous questions regarding the appropriate means of regulating stormwater discharges within the NPDES program due to the serious water quality impacts of stormwater discharges, the variable nature of stormwater, and the large number of stormwater point sources. EPA undertook multiple regulatory actions to address these unique discharges. Congress, with the addition of section 402(p), established a structured and phased approach to address stormwater discharges and altered the way stormwater is addressed under the CWA as compared with other point source discharges of pollutants. CWA section 402(p)(1) created a temporary moratorium on NPDES permits for point source stormwater discharges, except for those listed in CWA section 402(p)(2), including dischargers already required to have a permit and discharges associated with industrial activity. In 1990, pursuant to CWA section 402(p)(4), EPA promulgated the Phase I stormwater regulations for those stormwater discharges listed in CWA section 402(p)(2). See 55 FR 47990 (November 16, 1990). The Phase I regulations required NPDES permit coverage for discharges associated with industrial activity and from "large" and "medium" municipal separate storm sewer systems (MS4s). CWA section 402(p)(2). As part of that rulemaking, EPA interpreted stormwater "discharges associated with industrial activity" to include stormwater discharges associated with "construction activity" as defined at 40 CFR 122.26(b)(14)(x). See 55 FR 48033-34. As described in the Phase I regulations, dischargers must obtain authorization to discharge (or "permit coverage"), including discharges associated with construction activity, including clearing, grading, and excavation, if the construction activity:

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

See 40 CFR 122.26(b)(14)(x) and (c)(1).

CWA section 402(p)(5) and (6) establish a process for EPA to evaluate potential sources of stormwater discharges not included in the Phase I regulations and to designate discharges for regulation to protect water quality. CWA section 402(p)(6) instructs EPA to “issue regulations...which designate stormwater discharges, other than those discharges described in [section 402(p)(2)], to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources.” In 1999, pursuant to the broad discretion granted to the Agency under CWA section 402(p)(6), and in response to a court remand in *Natural Resources Defense Council v. EPA*, 966 F.2d 1292, 1306 (9th Cir. 1992) (holding that EPA had failed to explain in its 1990 Phase I stormwater rule why stormwater discharges from construction sites disturbing less than five acres were not industrial in nature), EPA promulgated the Phase II stormwater regulations that designated discharges associated with “small” construction activity and “small” MS4s. 64 FR 68722 (December 8, 1999). NPDES permit coverage is required for discharges associated with “small” construction activity, including clearing, grading, and excavation, if the construction activity:

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

See 40 CFR 122.26(b)(15).

EPA continues to have discretionary authority under CWA section 402(p)(6) to designate additional stormwater discharges for regulation under the CWA to protect water quality. The NPDES regulations establish a process for EPA exercising that discretion to designate and require NPDES permits for unregulated stormwater discharges. See 40 CFR 122.26(a)(9)(i)(C)-(D); see also *Env't Defense Ctr. v. EPA*, 344 F.3d 832, 873-76 (9th Cir. 2003).

B. NPDES Permits for Stormwater Discharges Associated with Construction Activity

The NPDES regulations provide two options for obtaining authorization to discharge or “permit coverage”: general permits and individual permits. A brief description of these types of permits as they apply to construction and development (C&D) sites follows:

1. **General NPDES Permits.** The vast majority of discharges associated with construction activity are covered under NPDES general permits. EPA, States, and Tribes use general permits to cover a group of similar dischargers under one permit. See 40 CFR 122.28. General permits simplify the process for dischargers to obtain authorization to discharge, provide permit requirements for any eligible discharger that files a Notice of Intent (NOI) to be covered, and reduce the administrative workload for NPDES permitting authorities. General permits, including the fact sheet describing the rationale for permit conditions, are issued by NPDES permitting authorities after an opportunity for public review of and comment on the proposed general permit. Typically, to obtain authorization to discharge under a construction general permit, a discharger (any operators of the construction site; typically, a developer, builder, and/or contractor) submits to the permitting authority an NOI to be covered under the general permit. An NOI is not a permit or a permit application (see *Texas Independent Producers and Royalty Owners Ass'n v. EPA*, 410 F.3d 964, 977-78 (7th Cir. 2005)), but by submitting the NOI, the discharger asserts and acknowledges that it is eligible for coverage under the general permit and that it agrees to the conditions in the published general permit. Discharges associated with the construction activity are authorized consistent with the terms and conditions established in the general permit.

After reviewing information regarding permit eligibility contained in the NOI, EPA, States and Tribes may notify a construction site operator that it must, instead, apply for an individual permit if the permitting authority determines that the operator does not meet the eligibility conditions for coverage under the general permit.

2. **EPA Construction General Permit (CGP).** Since 1992, EPA has issued a series of Construction General Permits (CGPs) that cover areas where EPA is the NPDES permitting authority. At present, EPA is the permitting authority in three States (Massachusetts, New Hampshire, and New Mexico), the District of Columbia, Puerto Rico and all other U.S. Territories with the exception of the Virgin Islands, construction projects undertaken by Federal Operators in four States (Colorado, Delaware, Vermont, and Washington), Lands of Exclusive Federal Jurisdiction, most Indian Country lands and a couple of other specifically designated activities in specific States (e.g., oil and gas activities in Oklahoma). See Appendix B for a complete list of areas covered by EPA's CGP.
3. **Individual NPDES Permits.** A permitting authority may require any construction site operator to apply for an individual permit rather than using a general permit. Likewise, any discharger may apply to be covered under an individual permit rather than seek coverage under an otherwise applicable general permit. See 40 CFR 122.28(b)(3). Unlike a general permit, an individual permit is intended to be issued to one permittee, or a few co-permittees. Individual permits for stormwater discharges from construction sites are rarely used, but when they are, they are most often used for very large projects or projects located in sensitive watersheds. EPA estimates that less than one half of one percent (< 0.5%) of all construction sites in the country are covered under individual permits.

C. Technology-Based Effluent Limitation Guidelines and Standards in NPDES Permits

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

1. **Best Practicable Control Technology Currently Available (BPT).** The CWA requires EPA to specify BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In doing so, EPA must determine what level of control is technologically available and economically practicable. CWA section 301(b)(1)(A). In specifying BPT, EPA must look at a number of factors. EPA considers the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application. The Agency also considers the age of the equipment and facilities, the process employed and any required process changes, engineering aspects of the application of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. CWA section 304(b)(1)(B).
2. **Best Available Technology Economically Achievable (BAT).** BAT effluent limitations are applicable to toxic (priority) and nonconventional pollutants. EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific pollutants have been designated priority toxic pollutants. See 40 CFR 401.15 and 40 CFR part 423,

Appendix A. In general, BAT represents the best available performance of facilities through application of the best control measures and practices economically achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives within the point source category. CWA section 304(b)(2)(A). The factors EPA considers in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the Administrator deems appropriate. CWA section 304(b)(2)(B).

3. **Best Conventional Pollutant Control Technology (BCT).** The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing point sources. BCT is not an additional limitation but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in CWA section 304(b)(4)(B), the Act requires that EPA establish BCT limitations after consideration of a two-part "cost-reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986. 51 FR 24974 (July 9, 1986). CWA section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD₅), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. See 40 CFR 401.16. The Administrator has designated oil and grease as an additional conventional pollutant. 44 FR 44501 (July 30, 1979). CWA section 304(b)(4)(B).
4. **Best Available Demonstrated Control Technology (BADT) for New Source Performance Standards (NSPS).** NSPS apply to all pollutants and reflect effluent reductions that are achievable based on the BADT. New sources, as defined in CWA section 306, can install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology. In establishing NSPS, CWA section 306 directs EPA to take into consideration similar factors that EPA considers when establishing BAT, namely the cost of achieving the effluent reduction and any non-water quality, environmental impacts and energy requirements. CWA section 306(1)(B).

NPDES permits issued for construction stormwater discharges are required under section 402(a)(1) of the CWA to include conditions for meeting technology-based ELGs established under CWA section 301 and, where applicable, any NSPS established under CWA section 306. Once an ELG or NSPS is promulgated in accordance with these sections, NPDES permits must incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national ELGs and/or NSPS, permitting authorities must establish and include in NPDES permits technology-based effluent limitations on a case-by-case basis based on their best professional judgment. See CWA section 402(a)(1)(B); 40 CFR 125.3(a)(2)(ii)(B).

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

On December 1, 2009, EPA promulgated ELGs and NSPSs to control the discharge of pollutants from construction sites. See 74 Fed. Reg. 62996, and 40 CFR 450.21. These requirements, known as the "Construction and Development Rule" or "C&D rule," became

effective on February 1, 2010. Following the promulgation of the C&D rule in 2009, several parties filed petitions for review of the final rule, identifying potential deficiencies with the dataset that EPA used to support its decision to adopt a technology-based numeric turbidity limitation as well as other issues. On March 6, 2014, pursuant to a settlement agreement to resolve the litigation, EPA finalized amendments to the C&D rule that withdrew the technology-based numeric turbidity limitation and monitoring requirements, and also provided clarification regarding several other requirements of the rule. See 79 Fed. Reg. 12661 and 80 Fed. Reg. 25235. EPA must address the requirements of the C&D rule in any future CGP, including this proposed 2027 CGP. A summary of the C&D rule requirements is included in Section II below.

II. Summary of C&D Rule Requirements

The C&D rule requirements include non-numeric effluent limitations that apply to all permitted discharges from construction sites (40 CFR 450.21). The effluent limitations are structured to require construction operators to first prevent the discharge of sediment and other pollutants through the use of effective planning and erosion controls; and second, to control sediment discharges that occur through the use of effective controls. Operators must implement a range of pollution control and prevention measures to limit or prevent discharges of pollutants, including those from dry weather discharges as well as wet weather (i.e., stormwater).

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

The C&D rule's non-numeric effluent limits are as follows (see 40 CFR 450.21):

A. Erosion and Sediment Controls

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

1. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;
2. Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;
3. Minimize the amount of soil exposed during construction activity;
4. Minimize the disturbance of steep slopes;
5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater discharge,

and soil characteristics, including the range of soil particle sizes expected to be present on the site;

6. Provide and maintain natural buffers around waters of the United States, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;
7. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and
8. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

B. Soil Stabilization Requirements

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

C. Dewatering Requirements

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

D. Pollution Prevention Measures

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

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and
3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

E. Prohibited Discharges

The following discharges from C&D sites are prohibited:

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

2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
4. Soaps or solvents used in vehicle and equipment washing.

F. Surface Outlets

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

III. Summary Overview of Proposed Changes to the Permit

This section of the fact sheet is intended to provide a high-level overview of the proposed changes to the CGP. Section VI of the fact sheet includes a more detailed, line-by-line summary of the proposed changes.

A. Process Used to Identify Proposed Permit Changes

As with prior iterations of the CGP, the EPA has continued to prioritize seeking input during the development of the draft permit from various stakeholders that have expressed an interest in construction stormwater in the past. The EPA met with stakeholders representing the construction industry and environmental interests. A summary of these meetings is included in the docket for this proposal. The purpose of these meetings was to help identify areas of the 2022 CGP that may benefit from further clarification or modification to more effectively achieve the pollutant reduction objectives of the permit. The feedback obtained from these meetings helped inform the types of clarifications and other changes the EPA is proposing here, as well as the areas where the Agency is soliciting further feedback during the public comment period. Also, the EPA is proposing changes to the permit as informed by the EPA's learned experiences in implementing the 2022 CGP and working directly with covered operators. As introduced in Section II.B, the EPA is proposing additional changes to the permit to ensure the water quality-based limitations in Part 3 are consistent with the Supreme Court's San Francisco decision, which was published after the EPA's issuance of the current 2022 CGP.

B. Table of Proposed Changes

As an overall matter, the changes EPA is proposing for the 2027 CGP are narrow in scope, targeted at specific issues, and are expected to streamline requirements. The following table identifies the changes being proposed to the CGP. The proposed changes fall into one of seven categories as follows: (1) changes to conform to a recent Supreme Court decision, (2) modernizing permitting through electronic exchange of site information, (3) updates to reflect best industry practice, (4) permit streamlining, (5) clarifications, (6) requests for comment on potential additional changes, and (7) changes in formatting, correcting errors, and updating references. The table also identifies where each change is found in the proposed permit. A mark-up version of the permit, showing the specific changes to the 2022 CGP, is posted at <https://www.epa.gov/npdes/proposed-2027-construction-general-permit-cgp-and-related-documents>. A more detailed discussion of each change and EPA's supporting rationale is included in Section VI.

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
Changes to Conform to a Recent Supreme Court Decision	Modify narrative water quality requirements to ensure consistency with the Supreme Court's decision in <i>San Francisco v. EPA</i>. Move conditions that were included as Part 10 to Part 3.1 and apply these conditions to all discharges. Make corresponding changes related to observations made during inspections (4.6.2.b) and triggering conditions for corrective action (5.1.3).	1.1.8, 1.1.9, 2.2.13g, 3, 3.2, 3.1, 4.6.2b and c, 4.6.3e, 5.1.3, 7.2.6b.vii(c)
Modernizing Permitting Through Electronic Exchange of Site Information	Modify NOI to require that operators provide either an electronic copy of the Stormwater Pollution Prevention Plan (SWPPP), a website address where the SWPPP can be viewed, or a copy of the SWPPP site map and signed certification. Clarify that EPA will not be reviewing or approving this version of the SWPPP or using it to make compliance determinations.	1.4.1, footnote 4, App. H
Updates to Reflect Best Industry Practice	Require stabilization of sediment basin, including related conveyance structures and discharge points, prior to directing stormwater to the control.	2.2.13f
Permit Streamlining	Modify perimeter control requirement to make it clear that these controls are only necessary for areas that have potential to receive stormwater from disturbed areas. Simplify stabilization requirements that apply to sites located in arid, semi-arid, and drought-stricken areas and that discharge to sensitive waters, including removing the "seasonally dry period" condition that limited the exception. Provide an exception to the otherwise applicable stabilization deadlines for unforeseeable frozen ground or snowfall conditions; add definition of "frozen ground conditions" for clarity. Consolidate inspection requirements that are duplicative.	2.2.4 2.2.15b.i thru iii 2.2.15b.vi, footnote 20 4.6.1.d

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
	Remove the requirement to provide photos with the Notice of Termination of the site prior to completion of stabilization.	8.2.2a
	Modify NeT to enable operators subject to State or Tribe-specific requirements in Part 9 that require reporting of specific information to be able to do so through the same system used for NOIs, NOTs, and submitting monitoring reports.	9
	Modify NeT to retain copies of notices of coverage, or delete the SWPPP requirement to include the notice of coverage.	NeT only, no changes to the CGP
Clarifications	Clarify that confidential business information (CBI) and restricted information in the SWPPP may be withheld from the public as long as it is clearly identified.	1.4.1b, 7.3, Appendix B (definition of "Restricted Information")
	Include a sentence explaining the typical 14-day waiting period process following the submittal of the NOI.	1.4.3
	Reorganize the section of the permit explaining how changes to the NOI should be submitted and how they will be processed. Clarify that if any of the listed changes in Part 1.4.4.b occur, the 14-day review period will be triggered for the change.	1.4.4
	Clarify that only changes of one or more acres to the estimated total acreage to be disturbed require a Change NOI form.	1.4.4b
	Clarify that changes or additions to the applicable receiving waters that result from increases in the estimated area of disturbance would also trigger the need to submit a Change NOI form.	
	Clarify in a footnote that if a change to the NOI needs to be made to the original answer given to the question, "Will you use polymers, flocculants, or other treatment chemicals at your construction site?" the NeT system will require the operator to submit a new NOI.	footnote 5

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
	Clarify in a footnote that design specifications may also be found in State, Tribal, or local requirements.	Part 2.1.2, footnote 7
	Emphasize objective of erosion and sediment controls to minimize accelerated soil erosion and sedimentation associated with construction activities and to minimize the offsite escape of sediment in stormwater.	Part 2.2
	Add a footnote with guidelines for minimizing dust at the site.	2.2.7, footnotes 9 and 10
	Remove reference to “native” topsoil, which confused operators and unnecessarily narrowed options; add footnote guidelines for how to comply with topsoil requirements.	2.2.9, footnote 11, 7.2.4f, 7.2.6b.iv
	Clarify the SWPPP requirements with respect to documenting (1) where on the site topsoil will be protected or soil conditioning will occur (unless infeasible), and (2) topsoil preservation practices (or the reasons preserving topsoil at the site is infeasible).	
	Add examples of additional practices that can be effective in minimizing soil compaction.	2.2.11b
	Clarify that vegetation and other construction-related debris that has accumulated adjacent to any inlet protection measures should be removed in the same manner as accumulated sediment.	2.2.10a
	Clarify that the stabilization deadlines in Parts 2.2.15a and b apply to the installation of stabilization measures.	2.2.15a and b
	Add clarifying note on the meaning of the 70 percent vegetative cover requirement, and a separate footnote recommending the avoidance of invasive plant species for stabilization.	2.2.15c.i

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
	Make it clear that for on-site waste containers, operators can choose between covering the waste container or using other methods of preventing a discharge from the container; add language clarifying the overall objective of the waste containers is to prevent wastes from escaping the site and being discharged.	2.3.3e
	Add note clarifying the requirements that apply to demolition wastes that may contain toxic or hazardous substances.	2.3.3e
	Reduce duplication in previous emergency spill language and update to correspond to current procedures for spills and other leaks; emphasize the need to take steps to prevent a discharge from a spill or leak consistent with the NPDES duty to mitigate.	2.3.6
	Clarify that the Part 3.1 discharge conditions relate to pollutants that are associated with construction activity.	3.1
	Clarify that the Part 3.4.4.d requirement to record monitoring information and retain for these records also includes records of calibration verification in accordance with the standard permit conditions in Appendix G, Part G.10.2.	3.4.4d
	Clarify that the SWPPP must also address any applicable Part 9 requirements.	7.1, 7.2
	Clarify the stabilization deadlines that must be included in the SWPPP.	7.2.6b.viii(b)
	Clarify as an example that the requirement to modify the SWPPP is triggered when there is a change of one or more acres to the estimated area of disturbance.	7.4.1a
	Clarify what the stabilization photos should show related to the stabilized site in Part 8.2.2.	8.2.2, footnote 31, Appendix I
	Clarify existing stabilization photo requirement to specify which stabilization criteria are being complied with as part of the NOT.	8.2.2d

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
Requests for Comment on Potential Additional Changes	Request for comment on the proposed requirement to provide the SWPPP (or a URL link to the SWPPP) or a copy of your SWPPP site map and the signed SWPPP certification with the NOI.	1.4.1, Request for Comment # 1
	Request for comment on the list of specific discharge conditions that are indicators of water quality problems.	3.1, Request for Comment # 2
	Request for comment on whether additional flexibility is warranted for the required submittal of quarterly reports where operators coordinate with one another on turbidity monitoring efforts and when there is no dewatering discharge in a monitoring quarter.	3.3, Request for Comment # 3
	Request for comment on allowing for reductions in the turbidity monitoring frequency for longer-term dewatering operations under certain conditions.	3.3.1, Request for Comment # 4
Changes in Formatting, Correcting Errors, and Updating References	Move text from many of the existing footnotes to permit text (as notes or examples) or fact sheet.	All sections
	Include an erroneously omitted requirement from 40 CFR 450.21 (a)(3) to minimize the amount of soil exposed during construction.	2.2.1
	Correct an error related to the need to install perimeter controls upgradient of natural buffers.	2.2.4a
	Include updated references for wildlife-friendly stabilization controls.	2.2.15, footnote 14
	Correct omitted reference to Lands of Exclusive Federal Jurisdiction for stabilization requirements where sites discharge to sensitive waters.	2.2.15b.ii, 3.2
	Remove reference to geotextiles control since these products on their own are not considered appropriate as a permanent, non-vegetative stabilization control.	2.2.15c.ii
	Correct language used to refer to State categories of tiered waters for antidegradation protection.	2.2.15b.ii, 3.3, Table 4, 4.3.1

	Summary of Proposed Permit Change	Part(s) Where Proposed Change Appears
	Delete typographical error referring to Appendix K.	3.3.2b.i
	Provide more accurate reference to documentation required for the corrective action log when additional time is needed to complete the installation or repair.	5.2.1.c
	Remove outdated reference related to inspection requirements that applied to sites receiving coverage prior to February 17, 2023.	6.3
	Correct error in citation to Appendix G.	7.4.3
	Move stabilization photo requirements to a stand-alone section.	8.2.2
	Correct NOI form to include a question on the type of facility ownership as required by eReporting regulations at 40 CFR Part 127, Appendix A, Table 2 (Facility Type of Ownership).	Appendix H

C. Summary of More Significant Changes

The following is a detailed summary of the more significant changes proposed to be included in the final permit.

1. Changes to Conform to a Recent Supreme Court Decision

EPA is proposing changes to specific water quality-based requirements to address the Supreme Court's decision in *City and County of San Francisco v. EPA*, No. 23-753 (S. Ct. Mar. 4, 2025) (referred to as "the *San Francisco* decision"). The Supreme Court found that the CWA does not authorize what the Court referred to as "end-result" permit requirements that "do not spell out what a permittee must do or refrain from doing but instead make a permittee responsible for the quality of the water in the body of water into which the permittee discharges pollutants." *City and County of San Francisco v. EPA*, 604 U.S. 334, 338 (2025). The 2022 CGP includes language that could be considered the type of end-result provision addressed in the *San Francisco* decision. The proposed changes to the permit include removing a narrative limitation that required discharges to be "controlled as necessary to meet applicable water quality standards" and replacing it with a set of more specific limits that are indicators of water quality problems in the discharge. These indicator conditions were previously incorporated into the 2022 CGP as part of EPA's April 2025 modification of the permit; however, at that time, these requirements were only made applicable to newly eligible sites within Lands of Exclusive Federal Jurisdiction given the narrow modification being made to the permit. The proposed change in the 2027 CGP would make these indicator conditions applicable to all CGP permittees. EPA also proposes further conforming edits to other parts of the CGP that contain similar language implicated by the *San Francisco* decision.

2. Modernizing Permitting Through Electronic Exchange of Site Information

Currently, EPA does not have real-time access to information from CGP permittees' SWPPPs, which can delay the Agency's ability to provide assistance to operators and answer questions from the public about specific sites. Under the CGP, SWPPPs are required to be developed before the NOI is submitted. While the operator is required to make the SWPPP available to EPA upon request or at the time of an on-site inspection (Part 7.3), it is not currently required to be submitted with the NOI. The lack of real-time access to the SWPPP, or key aspects of the SWPPP, such as the site map and a description of stormwater controls to be used at the site, has meant that EPA is often limited in its ability to provide compliance assistance to permittees or answer basic questions about how a site is planning to comply with permit requirements. To address this issue, EPA proposes to require the operator to include as part of the NOI either a copy of the full SWPPP, a Uniform Resource Locator (URL) where a copy of the SWPPP can be viewed, or a copy of the SWPPP site map and the signed certification required by Part 7.2.10. EPA has found, in instances where it has reviewed SWPPPs, that nearly all permittees covered under the CGP developed them in a digital format. Since these SWPPPs are already saved as digital files, requiring this information as part of the electronic submittal of the NOI will not impose a significant additional burden. EPA assumes that the vast majority of SWPPPs are developed in a digital format, and therefore that requiring this information as part of the electronic submittal of the NOI will not impose a significant additional burden. In acknowledgment of the need for the SWPPP to change during the project, EPA would also specify in the permit that the version of the SWPPP submitted with the NOI would be used by the Agency for reference purposes only and would not form a definitive basis for determinations of compliance. EPA is requesting specific comment on this proposed change as well as recommendations on suggested alternatives.

3. Updates to Reflect Best Industry Practice

A proposed change related to sediment basins is intended to reflect current best practices in stormwater management at construction sites. Where operators choose to install a sediment basin at their site, they must comply with the design, installation, and maintenance requirements of Part 2.2.12 of the current permit. EPA inspections under the 2022 CGP found instances where significant downstream sediment discharges occurred as a result of operators immediately starting to use the basin after excavation and prior to sufficient stabilization. To address this concern, for those operators installing a sediment basin at their site, EPA proposes to require stabilization measures to be implemented prior to first directing stormwater to the sediment basin (including related conveyance structures and discharge points, to ensure that soil from the basin itself does not become a source of sediment discharge. At a minimum, the permit would specify that the sediment basin embankment and side slopes must be stabilized following the initial construction of the basin and prior to its first use. The specific type of stabilization, whether vegetative or non-vegetative, is left to the discretion of the operator and whatever design specifications prevail in the area of the project. This requirement is consistent with Federal and State design manuals as is discussed below in the section addressing Part 2.2.12.

4. Permit Streamlining

EPA's proposal also includes several modifications intended to streamline permit requirements while maintaining continued water quality protection. The following is a summary of the more noteworthy of these proposed changes:

- *Clarify that perimeter controls are only needed in specific areas of the site* – EPA has found during inspections that operators frequently interpret the CGP to require the entire perimeter of the construction site to be surrounded by a sediment control regardless of whether stormwater flows in the direction of the control. Perimeter controls installed in areas that are not receiving stormwater are not achieving a stormwater control purpose and are therefore an unnecessary expenditure for CGP compliance. For this reason, EPA proposes to further clarify Part 2.2.3 to emphasize that perimeter controls are necessary only for areas that have the potential to receive stormwater from disturbed areas.
- *Clarify stabilization deadlines for sites in arid, semi-arid, or drought-stricken areas* – EPA has found that the stabilization provisions applying to arid, semi-arid, and drought-stricken areas have proven to be unnecessarily confusing. Specifically, the current stabilization deadlines differ depending on an overlapping set of factors related to whether construction will occur during the “seasonally dry period,” whether the site disturbs more or less than five acres, and whether the site discharges to a sensitive water. EPA is proposing to simplify the permit by establishing a more straightforward approach to determine which stabilization deadline applies.
- *Provide flexibility for stabilization during sudden snow or frozen conditions* – The 2022 CGP does not provide clear direction for sites experiencing unforeseeable winter weather conditions (such as unforeseeable snow or frozen ground conditions) that result in triggering the permit requirement for operators to stabilize the exposed portions of the site for 14 or more days of inactivity. EPA is aware of at least one site permitted under the 2022 CGP that faced this same situation as a result of an unexpected snowstorm during the current permit term. Though there is currently a provision addressing “unforeseen circumstances” (Part 2.2.14b.ii in the 2022 CGP) such as “problems with supply of seed stock or with the availability of specialized equipment and unsuitability of soil conditions

due to excessive precipitation and/or flooding," this provision is not directly applicable to the unforeseeable winter weather conditions scenario explained above. To provide clarity on this issue and flexibility in the timelines for unforeseeable winter conditions that could cause unplanned delays in construction, EPA proposes to allow construction sites in these specific circumstances to temporarily suspend the need to stabilize the site while the conditions persist. Providing this flexibility would acknowledge the impracticability of complying with standard stabilization timeframes during these extreme weather conditions while also ensuring that these sites achieve stabilization at the soonest practicable time after these conditions dissipate consistent with the CGP's overall erosion control objectives.

- *Reduce the number of photos that must be submitted with the NOT* – Under the current 2022 CGP, when a site terminates coverage because the construction activities are completed, the permit requires the operator to submit both "before and after" photographs of the site to demonstrate compliance with the stabilization requirements. Through evaluating the photos submitted during the current permit term, EPA is finding that it is likely unnecessary to compare before and after photos to substantiate compliance with the stabilization requirements, and that having just the post-stabilization photos of a construction site should be sufficient to ensure the site's compliance with these requirements. For this reason, EPA proposes to no longer require operators to submit before photos with their NOT form. See *2022 Construction General Permit (CGP) - Evaluation of Stabilization Photographs*, EPA # 833-R-26-001 (EPA, 2026), available in the docket for the proposed permit at regulations.gov for Docket ID No. EPA-HQ-OW-2025-0760.
- *Consider streamlining of specific turbidity monitoring and reporting requirements* – Under the current 2022 CGP, sites discharging dewatering water to sensitive waters are required to conduct turbidity monitoring daily when there is a discharge. The site is also required to report on the weekly average turbidity levels every quarter. Based on EPA's evaluation of the submitted data (see *Evaluation of Turbidity Data from EPA's 2022 Construction General Permit*, EPA # 833-R2-6002 (EPA, 2025), available in the docket for the proposed permit at regulations.gov for Docket ID No. EPA-HQ-OW-2025-0760), and feedback received from permittees for the 2022 CGP, the Agency is considering potential changes to these requirements as follows:
 - Request public feedback on reducing monitoring frequency for certain dewatering discharges – EPA is contemplating whether to reduce the frequency of turbidity monitoring from daily to weekly for sites that will be discharging dewatering water continuously for an extended period of time. In particular, EPA is requesting comment (1) generally on the proposal to reduce the monitoring frequency for sites discharging dewatering water for longer periods of time, and (2) specifically on the option of allowing sites discharging continuously for more than three days to monitor weekly if the average value of the first three days of turbidity monitoring does not exceed the benchmark.
 - Request comment on streamlining the reporting requirements for certain sites – Where a group of operators coordinate turbidity monitoring efforts at the same site, the 2022 CGP requires each operator to submit a monitoring report every quarter regardless of the role that the individual is taking with respect to collecting the actual samples. During the 2022 CGP permit term, EPA heard from operators who inquired whether it is necessary for all operators in the operator group to submit reports when EPA is already receiving the turbidity data from one of the operators. EPA is open to ways in which it may be able to reduce unnecessary reporting burden while still

continuing to receive the same level turbidity data it needs to ensure that on-site controls are working to protect water quality. For this reason, EPA invites public input on whether the 2027 CGP should relieve some operators of the reporting requirement for turbidity benchmark monitoring as long as they submit an initial quarterly report informing the Agency that they are relying on another permitted operator at the same site to monitor and report and identifying the specific operator. Additionally, Part 3.3.4a requires operators to submit quarterly reports during the period of permit coverage, including for quarters when there is no dewatering discharge. EPA requests feedback on whether submitting reports should still be required when there is no dewatering discharge during a monitoring quarter and if there are alternative reporting requirements that are recommended.

5. Changes in Formatting, Correcting Errors, and Updating References

EPA identifies several proposed changes in the Section III.B Table that are best characterized as non-substantive changes to permit formatting, corrections of typographical errors, and updates to technical references. Included in this category is one set of changes that is focused on improving permit readability by reducing the overall number of footnotes from the 2022 CGP. Over the course of the past three CGP permit terms, the number of footnotes used to provide examples and additional information and references grew from 26 in the 2012 CGP to 95 in the 2022 CGP. While these footnotes provide useful information, EPA is concerned that its location at the bottom of the page in smaller font make this text less accessible. For these reasons, EPA is proposing to cut back on the use of footnotes by instead incorporating much of the same information into the body of the permit. Where the current footnote included examples or additional notations that further clarify what is meant by specific permit text, EPA generally moved this text to the body of the permit. Where changes to the text are proposed, they are shown in a different font at <https://www.epa.gov/npdes/proposed-2027-construction-general-permit-cgp-and-related-documents>. The vast majority of these changes would result in no substantive edits to the footnote text in the 2022 CGP. If finalized as proposed, this would result in reducing the number of footnotes from 95 to 31. For further information on the where the footnote text is proposed to be moved, see *Proposed 2026 Construction General Permit (CGP) - Tracking of Changes to Footnotes from 2022 CGP* (EPA, 2026).

IV. Geographic Coverage of the Permit

The 2022 CGP provides permit coverage for stormwater discharges associated with construction activities in areas not covered by an approved State NPDES program. The areas of geographic coverage of this permit are listed in Appendix B and include the States of Massachusetts, New Hampshire, and New Mexico, as well as most Indian Country lands, Lands of Exclusive Federal Jurisdiction, and construction projects at Federal Facilities in selected States or undertaken by Federal Operators in the State of Washington. Permit coverage is also available in the District of Columbia, Puerto Rico, and all other U.S. Territories with the exception of the U.S. Virgin Islands. EPA is not anticipating any changes to geographic coverage for the 2027 CGP.

V. Categories of Facilities That Can be Covered Under This Permit

The 2022 CGP covers stormwater discharges associated with construction activities located in one of the areas identified in Appendix B, which disturb one or more acres of land, or will disturb less than one acre but are part of a common plan of development or sale that will ultimately disturb one acre or more. See 40 CFR 122.26(b)(14)(x) and (15), and Part 1.1 of the permit. The table below summarizes which construction activities may be covered by this permit:

Categories of facilities that can be covered under this permit

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

Note that this list of NAICS codes covers those industry segments most likely to make use of this permit, but any construction operator that meets the eligibility requirements established for coverage is eligible. Eligibility for coverage by the permit is available to operators of "new sites," operators of "existing sites," "new operators of permitted sites," and operators of "emergency-related projects," as discussed in Part 1.2 and defined in Appendix A. EPA is not proposing any changes to eligible categories of facilities for the 2027 CGP.

VI. Permit Requirements

This section outlines below the purpose of each provision and any additional explanation of each provision. To help facilitate public review of this document, EPA uses **purple font** in the discussion below to denote where a proposed change for the 2027 CGP is discussed, while text in black font indicates discussion from the 2022 CGP fact sheet that is retained for reference and because no changes are being proposed at this time. Note that some formatting changes or sections where introductory or transitional text is added are kept in black font. While EPA distinguishes between new and old language to facilitate easier review of the factsheet, all parts of the CGP and factsheet are open for public review and comment and may be amended in the final 2027 CGP in response to public comments received.

This fact sheet differs markedly from past CGP fact sheets in that the text boxes in each section that had included duplicated permit text have been removed. EPA made this change to cut down on the size of the fact sheet (this removed 60 pages) while retaining the essential information that summarizes the proposed changes and provides the Agency's rationale for proposing them. EPA notes that this change creates consistency with other Agency general permit fact sheets.

Part 1: How to Obtain Coverage Under the CGP

Part 1 of the CGP details the provisions that must be met to obtain coverage under the permit.

Part 1.1: Eligibility Conditions

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

The definition of “operator” in Part 1.1.1 establishes which parties must obtain permit coverage. Any party associated with a construction site that meets the first part of the definition of “operator” (i.e., *the party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications*) or the second part of the definition of “operator” (i.e., *the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions*) must obtain NPDES permit coverage for its stormwater discharges associated with construction activity including clearing, grading, and excavation.

EPA emphasizes that it is the party's operational control over the construction project that is determinative of whether they are considered an “operator” under the permit. In many cases, there will be two separate parties that have the necessary operational control over the project, and they will fall fairly distinctly into either one of the two types of parties described in the definition in Parts 1.1.1a and 1.1.1.1b. In other cases, there will be one party that exercises both types of operational control over the project. EPA frequently finds that parties with the type of operational control over specific projects within the permit's meaning of operator are involved in one or more of the following activities:

- Authorizing development/construction activities;
- Procuring project plans and specifications;
- Approving/disapproving project plans and specifications;
- Approving/disapproving project bids;
- Approving/disapproving SWPPPs, and SWPPP modifications;
- Issuing cease and desist orders of construction activities regardless if completed;
- Carrying out or managing construction work on the project site that causes earth disturbance.

This is not a comprehensive list of activities, and EPA acknowledges that there are likely other similar decision-making activities not listed here that would indicate project-specific operational control.

Part 1.1 of the permit also clarifies the requirements with respect to projects with multiple operators. Where there are multiple operators associated with the same project, all operators must obtain permit coverage. Also, if the operator of a “construction support activity” (see Part 1.2.1c) is different than the operator of the main site, that operator must also obtain permit coverage. For example, if a construction support activity for the project is owned by a separate owner, and if the separate owner meets the definition of “operator”, that person must obtain permit coverage for discharges from the site where the support activities are located. However, if the construction support activity is owned or operated by the site operator, then the support activity must be included in the site operator's permit coverage, including any documentation provided in the NOI and SWPPP. Part 1.1 references Part 7.1 for clarification on the sharing of permit-related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

Part 1.1.4 specifies that a site would not be eligible for CGP coverage if it was either already covered by a different NPDES permit for the same discharge or is in the process of having permitted discharges denied, terminated, or revoked. EPA clarifies that notwithstanding a site being made ineligible for coverage under this permit because it falls under the description of Parts 1.1.4a or 1.1.4b, EPA may waive the applicable eligibility requirement after specific review if it determines that coverage under this permit is appropriate.

The Part 1.1.5 text is aligned with the streamlined procedure that is used to assist operators in selecting the correct eligibility criterion for the protection of endangered and threatened species. The eligibility provision also notes that if the operator has been approved to submit a paper NOI form they will be required to complete the worksheet in Appendix D and submit this document with the paper NOI.

The requirements in Part 1.1.8, which apply to new sources, are designed to comply with 40 CFR 122.4(i) requirements that address the issuance of permits to new sources to waterbodies not meeting instream water quality standards. EPA notes that while Part 1.1.8 is designed to specifically implement 40 CFR 122.4(i), other water quality-based requirements apply to existing sources, as well as new sources. Part 3 of the permit includes water quality-based limits applicable to all sources. *EPA proposes use of the phrase "controlled as necessary" in Part 1.1.8.a to ensure consistency with the similar language used in Part 3. Changes are also proposed in Part 1.1.8 and 1.1.9 for consistency with the modifications that are proposed to be made in Part 3 of the permit to address the San Francisco decision.*

Part 1.1.8 also requires operators to determine if they discharge to a Tier 2, Tier 2.5, or Tier 3 water, and if they do, to comply with specific requirements in the permit, which are intended to ensure that their discharges will not result in a lowering of water quality in the receiving water. This provision makes clear to operators their requirements for complying with antidegradation requirements, and provides assurance that operators' discharges will not lead to a lowering of water quality in the receiving water. EPA reminds operators that they may use [EPA's Discharge Mapping Tool](#) to assist in identifying whether any receiving waters are listed as impaired (and the pollutant for which it is impaired) and whether an approved total maximum daily load (TMDL) exists for that waterbody.

Part 1.1.9 clarifies what operators electing to use cationic treatment chemicals must do to be eligible for coverage under the permit. EPA includes Appendix J to the permit as a suggested format for notifying the operator's applicable EPA Regional Office about its intent to use cationic treatment chemicals.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning background on cationic treatment chemicals as well as the Agency's rationale for adopting this provision. See section VI.2.4 "Use of Cationic Treatment Chemicals" on pages 20 through 28 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

Part 1.2: Types of Discharges Authorized

Part 1.2 of the CGP provides operators with a comprehensive list of the types of discharges that are authorized once covered under this permit. This list makes operators aware of authorized stormwater and non-stormwater discharges, and of any additional requirements associated with those discharges to minimize the discharge of pollutants, and also makes operators aware that any discharges not included on the list are not authorized under this permit. Part 1.2.1 lists categories of stormwater discharges that are authorized under the CGP, provided that all applicable permit limits and conditions are met. Part 1.2.2 provides authorization for non-stormwater discharges from the operator's construction activity. EPA has the authority under the CWA to issue permits for point source discharges in addition to stormwater discharges under CWA section 402(p), including for non-stormwater discharges under CWA section 402(a)(1). While the CGP is a stormwater permit, and the primary focus of the permit is on stormwater discharges associated with construction activity, the non-stormwater discharges listed in Part 1.2.2 are included among the list of discharges authorized by the CGP

because they are incidental to construction activities. By authorizing these discharges under the CGP, EPA is helping to streamline the permitting process for construction operators by avoiding the need for them to get a second NPDES permit.

EPA notes that any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA Section 402(k) by disclosure to EPA, State, or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the SWPPP, or during an inspection.

EPA defines the term “non-turbid” as it is used in Parts 1.2.2f, i, and j to emphasize the visual qualities of water that is free from turbidity, as opposed to whether water quality standards are met. The definition of “non-turbid” in Appendix A is as follows: “a discharge that is free from visual turbidity.” For the purposes of this permit, “visual turbidity” refers to the presence of a sediment plume, or where the water is otherwise cloudy, opaque, or has a visible contrast caused by sediment that can be visually identified by an observer. See Appendix A. The definitions are intended to provide a more meaningful design objective for pollutant controls that will be easier to understand.

The permit clarifies in Part 1.2.2l that only uncontaminated construction dewatering discharges that are in compliance with the requirements of Part 2.4 are eligible for coverage under the CGP. EPA also notes that operators may need to verify that the dewatering discharge is uncontaminated. Operators should review Part 9 to determine if any additional State-specific or Tribal requirements apply to their dewatering discharge and should ensure that they have complied with any State, Tribal, or local permitting or other requirements.

Part 1.2.3 allows the discharge of authorized stormwater or authorized non-stormwater discharges, commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

Part 1.3: Prohibited Discharges

Part 1.3 identifies the types of wastes and other pollutants that operators are prohibited from discharging from a construction site under the permit. The requirement in Parts 1.3.1 through 1.3.4 implement prohibitions included in the C&D rule at 40 CFR 450.21 (e). EPA includes the types of prohibited non-stormwater discharges in the permit as a reminder to the operator that the only authorized non-stormwater discharges are delineated in Part 1.2.2.

Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit. The need to obtain separate permit coverage for prohibited discharges is made clear by Part 1.3 that states that if one of the described prohibited discharges will occur, the operator is required to “ensure the discharge is authorized by another NPDES permit consistent with Part 1.2.3 for commingled discharges.”

Part 1.4: Submitting Your NOI

Part 1.4 carries out the fundamental requirement that discharges are not authorized until permit coverage is obtained, and that permit coverage is obtained for the CGP through the submission of a complete and accurate NOI and is followed by a minimum 14-day review period (or less if the construction activities involve an emergency-related project in Part 1.4.3). EPA recognizes that obtaining CGP coverage following the normal procedures is not feasible in situations requiring emergency-related construction. EPA includes the exception for emergency-related construction in Part 1.4 to ensure that the discharge authorization process does not interfere with these types of projects that are required to avoid endangerment to human health, public safety, or the environment. By providing the operators of these projects with the ability to

immediately begin work, and to postpone the NOI submission and SWPPP completion deadlines for 30 calendar days, EPA intends that these projects may proceed without delay. Once the initial 30 calendar days has expired, however, the operator must submit an NOI and complete a SWPPP.

Part 1.4.1: NOI Requirements for SWPPPs

Part 1.4.1 clarifies that completing development of the SWPPP consistent with Part 7 is a prerequisite to submitting an NOI for coverage under this permit. This section also includes a proposed requirement related to the inclusion of the SWPPP or key components of the SWPPP as part of the NOI. EPA is proposing to require operators to provide in their NOI either the full SWPPP, a URL where the full SWPPP can be viewed for the duration of their permit coverage under the CGP, or a copy of the SWPPP site map and the signed certification required by Part 7.2.10. EPA has found it challenging to answer questions about permit compliance on particular sites from operators or from the public without being able to reference the SWPPP in real-time. The SWPPP includes important details about the construction project, proposed discharges, implementation plans and specifications for stormwater controls, and procedures to be followed for inspecting the site, maintaining controls, and stabilizing exposed areas upon completion of construction. Although EPA can currently under the 2022 CGP request a copy of the SWPPP (Part 7.3) or be provided access to it during an on-site inspection, the lack of real-time access to this information is a barrier to providing compliance assistance to permittees or answering questions from the public about specific projects. Including this information as part of the operator's electronic NOI submittal would help address this issue and, in turn, better assist operators in their efforts to comply with the requirements of this permit to control stormwater discharges. Having operators upload copies of their SWPPPs or key components of the SWPPP using the existing electronic system (NPDES eReporting Tool or "NeT") is also consistent with EPA's overall effort to promote electronic reporting.

Requiring SWPPP information to be included with the NOI would align with many State CGP requirements. In researching this issue at proposal, EPA has thus far found that 28 States require construction sites (or some portion of sites) to submit their version of the SWPPP with the NOI. Refer to the proposed permit docket for a copy of EPA's spreadsheet tracker and separate document including specific State CGP language on submitting the SWPPP.

EPA understands that the SWPPP is a "living document" in the sense that it will be modified, sometimes frequently, to reflect normal schedule, site design, and stormwater control adjustments that need to be made during the course of any construction project. The initial version of the SWPPP submitted with the NOI, therefore, will be subject to change. In acknowledgment of the need for the SWPPP to change during the project, EPA would specify in the permit that the version of the SWPPP submitted with the NOI would be used by the Agency for reference purposes only and would not be reviewed for definitive determinations of compliance.

EPA anticipates that this proposed requirement would impose minimal costs on CGP permittees. All construction operators are required to develop a SWPPP prior to submitting the NOI for permit coverage. The SWPPP should, therefore, already exist in its full form (as per Part 7.2) when the operator is filling out its NOI. EPA has found, in the instances where it has reviewed SWPPPs, that nearly all permittees covered under the CGP developed them in a digital format. In such a format, SWPPPs may be easily modified and forwarded to whomever is part of the Stormwater Team (Part 7.2.2). For this reason, EPA expects that the proposed requirement to either attach the SWPPP to the NOI, provide a link to the SWPPP, or include a copy of the site

map and signed certification will not impose more than minimal costs on permittees; including this in the NOI should typically only involve moving the document or relevant portions from one digital location to another.

Additionally, EPA proposes to clarify that confidential business information (CBI) and “restricted information” may be withheld from the SWPPP that is submitted with the NOI. EPA also includes a proposed new definition of restricted information in Appendix A. This clarification is the same language that is used in other EPA stormwater general permits, including the multi-sector general permit (MSGP) for stormwater discharges associated with industrial activities. See Part 6.4 of the 2021 MSGP.

Part 1.4.2: How to Submit Your NOI

Part 1.4.2 clarifies that operators must use EPA's NeT system to electronically prepare and submit the NOI for permit coverage. To access NeT, go to <https://cdx.epa.gov/cdx>. If it is not possible for an operator to make use of NeT, that operator may submit a waiver request to the Regional Office and an explanation as to why use of NeT is infeasible. Operators must receive affirmative confirmation from the Regional Office to then use a paper NOI.

Part 1.4.3: Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage

Part 1.4.3 specifies the deadlines for submitting NOIs for permit coverage and official start dates for permit coverage. NOI submittal deadlines vary depending on when the operator commences construction activity. EPA notes that if the operator misses the deadline to submit the NOI, any and all discharges from the site's construction activities will continue to be unauthorized under the CWA until they are covered by the CGP or a different NPDES permit. Discharges are not authorized if the NOI is incomplete or inaccurate or if you are not eligible for permit coverage. Additionally, EPA notes that it may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

Table 1 summarizes the deadlines and permit coverage start dates based upon the type of construction project. The term “operator of a new site” in Table 1 is used to describe projects that commence earth disturbing activities on or after the effective date of the 2027 CGP. New sites include those new sources that are subject to the C&D rule's NSPSs because they commenced construction after February 1, 2010 (the effective date of the C&D rule). The term “new site” was adopted to avoid the confusion that would have resulted if the permit used the term “new source” to describe both projects that began construction after February 1, 2010, but before the effective date of the 2027 CGP, and those projects that begin on or after the effective date of the 2027 CGP.

The term “operator of an existing site” in Table 1 refers to construction projects that commenced activities prior to the effective date of the permit. Existing sites include both those activities that began prior to the February 1, 2010, effective date of the NSPS of the C&D rule, and may have been covered under the 2008 CGP, and those activities that are subject to the NSPS because they commenced after February 1, 2010, but before the effective date of the 2027 CGP. Table 1 also clarifies that as long as the operator of an existing site submits an NOI no later than 90 days after the effective date of the permit, the operator will have its coverage under the 2022 CGP automatically continued until permit coverage has been granted under this or an alternative NPDES permit, or coverage is otherwise terminated.

The 14-day NOI submittal deadlines in Table 1 for operators of new sites and new operators of a new or existing site provides EPA and the Fish and Wildlife Service and the National Marine Fisheries Service (the “Services”), State and Tribal historic preservation offices,

and the public with an opportunity to review these submissions and to inform EPA if they believe that more time is needed to review the potential impacts from the project. The 14 days between receipt of the NOI and authorization is referred to as the “review period.”

During the 14-day review period, where one or both Services or the historic preservation office requests that they or EPA need to further explore whether a particular facility is eligible for permit coverage, EPA can delay authorization to allow such an assessment to take place. EPA may also use the review period to determine whether any more stringent controls are necessary to ensure that discharges will be protective of receiving water quality.

Additionally, during this review period, the public has an opportunity to review the NOIs. Anyone wishing to provide feedback to EPA can send information to the appropriate EPA Regional Office listed in Appendix B of the permit for consideration. EPA clarifies that this review period is not a public notice and comment period. EPA will consider any information provided to it during the review period but does not plan to provide specific responses to any comments received. Where appropriate, EPA will address concerns raised (e.g., will direct the relevant operator to make improvements to the designed stormwater controls as necessary to meet the requirements of the permit). Depending on the nature of the issue and the timing of the comments, EPA will take appropriate action either prior to or following discharge authorization. In addition, EPA may delay authorization if warranted, or may determine that the discharge is not eligible for authorization under this permit.

Table 1 describes that operators of emergency-related projects are considered provisionally covered under the permit immediately upon the start of construction, and fully covered 14 calendar days after EPA acknowledges receipt of their NOI through posted information on EPA's website (<https://cdxnodengn.epa.gov/net-cgp/action/login>), unless EPA notifies the operator that their authorization has been delayed or denied.

If the operator requests a waiver and submits a paper NOI, the 14-day review period prior to permit coverage is the same as above, however, this period commences only after EPA completes manual entry of the paper NOI information into NeT. Note that if the paper NOI contains errors or is incomplete, this will result in delaying the commencement of the 14-day review period. The operator will be able to tell when the 14-day review period has begun by checking for their NOI in NeT at <https://cdxnodengn.epa.gov/net-cgp/action/login>.

Part 1.4.4: Modifying your NOI

Part 1.4.4 describes the process for modifying an NOI if the operator needs to correct or update any fields. For clarification purposes, EPA specifies the types of modifications that require either a “Change NOI” form or a new NOI. Part 1.4.4 also includes a list of specific changes that trigger the 14-day waiting period.

EPA proposes to clarify that where changes to the estimated area to be disturbed occur, only those changes that are one or more acres in size would trigger the requirement to submit a Change NOI form. The proposed permit also notes (see footnote 13) that if after submitting the NOI the operator needs to change the answer to the question, “Will you use polymers, flocculants, or other treatment chemicals at your construction site?” the NeT system will continue the current practice of requiring the operator to submit a new NOI. An additional proposed clarification in Part 1.4.4b would require the operator to submit a Change NOI form for changes or additions to the receiving waters identified in the NOI that result from increases in the estimated area of the project's disturbance.

The permit also explains that the operator may continue to operate based on the information included in the original NOI but must wait until the review period has ended before

activities may commence or continue on any portion of your site that would be affected by any of the modifications.

Part 1.4.5: Your Official End Date of Permit Coverage

Part 1.4.5 describes how long permit coverage lasts, which is until the date that the operator terminates permit coverage consistent with Part 8; or until the operator obtains permit coverage under a different NPDES permit or a reissued version of this permit after it expires; or if the operator fails to submit an NOI for coverage under a reissued version of this permit before the deadline for existing construction sites.

Continuation of Coverage for Existing Operators After the 2027 Permit Expires

Note that if the 2027 CGP is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with section 558(c) of the Administrative Procedure Act (see 40 CFR 122.6) and remain in force and effect for discharges that were covered prior to its expiration. All operators granted permit coverage prior to the expiration date of the permit will automatically remain covered by the 2027 CGP until the earliest of:

- a. The authorization for coverage under a reissued or replacement version of the permit following the timely submittal of a complete and accurate NOI requesting coverage under the new permit. If a timely NOI for coverage under the reissued or replacement permit is not submitted, coverage will terminate on the date that the NOI was due; or
- b. The date of the submittal of an NOI; or
- c. Issuance or denial of an individual permit for the operator's discharges; or
- d. A final permit decision by EPA not to reissue the CGP, at which time EPA will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

EPA reserves the right to modify or revoke and reissue the 2027 CGP under 40 CFR 122.62 and 63, in which case the operator will be notified of any relevant changes or procedures to which operators may be subject.

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

Part 1.5: Requirement to Post a Notice of Your Permit Coverage

The requirement in Part 1.5 is to provide notice to the public, and any other interested parties, that discharges from the construction site and/or off-site construction support activities are authorized by EPA. By providing notice of permit coverage and other information about the site, interested parties are more easily able to obtain information about the construction site, such as the SWPPP, and identify the site when reporting potential permit violations. Note that operators are only required to provide copies of the SWPPP, upon request, to 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). EPA may provide access to portions of the SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from EPA, USFWS, or NMFS. To improve transparency of the process to report possible violations, the notice of permit coverage must include information on how the public can contact EPA if stormwater pollution is observed in the discharge. Footnote 10 clarifies that when the active part of the construction site is not visible from a public road, operators must place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

Part 2: Technology-Based Effluent Limitations

Part 2 organizes the technology-based effluent limitations into four sections:

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

The stormwater control requirements in Part 2 are the technology-based effluent limitations that apply to all discharges associated with construction activity eligible for permit coverage. The requirements in Part 2 generally apply the national ELGs and NSPSs in the C&D rule in 40 CFR part 450, promulgated on December 1, 2009 (74 Fed. Reg. 62996) and amended on March 6, 2014 (79 Fed. Reg. 12661). These requirements apply to all permitted sites, including construction support activities that are covered under the permit under Part 1.2.1 c.

EPA notes that for each of the effluent limits in Part 2, as applicable to the site, the operator must include the following in the SWPPP: (1) a description of the specific control(s) to be implemented to meet the effluent limit; (2) any applicable design specifications; (3) routine maintenance specifications; and (4) the projected schedule for installation/implementation. See Part 7.2.6.

EPA's Incorporation of the C&D Rule's Non-Numeric Limits

An operator can minimize the discharge of pollutants from construction sites by satisfying the non-numeric effluent limitations guidelines at 40 CFR 450.21 and by using various controls and practices, outlined in more detail as permit limitations by the permitting authority. EPA crafted the non-numeric effluent limitations guidelines in the C&D rule to allow flexibility in how the permitting authority implements these requirements in permits. See 74 FR 63016. As an example, 40 CFR 450.21 (a)(5) requires construction operators to design, install, and maintain controls to "minimize sediment discharges from the site." Thus, each NPDES permitting authority has discretion within this somewhat broad requirement, defined further at 40 CFR 450.21 (a)(5), to further define what it means to minimize sediment discharges, or to achieve any of the other non-numeric limits. See 74 FR 63016.

Accordingly, this permit contains requirements that specifically implement or incorporate each of the C&D rule's non-numeric limits to minimize the discharge of pollutants from construction sites. This is consistent with EPA's objective to write general permits with conditions that are clear, specific, and measurable. In the sections that follow, EPA discusses the permit requirements, and explains how the language is consistent with the non-numeric effluent limits in the C&D rule upon which they are based.

Part 2.1: General Stormwater Control Design, Installation, and Maintenance Requirements

Part 2.1 establishes the overall principle for designing, installing, and maintaining stormwater controls that work to minimize the discharge of pollutants from construction sites, as required in 40 CFR 450.21. The CGP includes a clarifying footnote (see footnote 16) that addresses a problem brought to EPA's attention by permittees involving private vendors marketing their stormwater control products as being endorsed or approved by EPA. The footnote clarification reminds the public that "[t]he permit does not recommend or endorse specific products or vendors."

Part 2.1.1: Design Factors

Part 2.1.1 requires the operator to account for design factors that address the corresponding C&D rule requirements in 40 CFR 450.21 (a)(2) and (5). This includes the expected amount, frequency, intensity, and duration of precipitation; the nature of stormwater runoff and run-on at the site, including the flow from impervious surfaces, slopes, and site drainage features; and the soil type and range soil particles.

It is important to consider the precipitation characteristics in this requirement so that earth-disturbing activities can be planned during periods with a lower risk of precipitation and so that erosion and sediment control practices can be designed to convey and manage the precipitation that is expected to occur. The requirement to design stormwater controls to account for the nature of stormwater discharges and run-on on the site and to reduce peak flowrates and total stormwater is intended to minimize scouring and erosion caused by stormwater discharges from the site. The requirement to account for soil characteristics, such as particle size distribution, erosivity, and cohesiveness, is also important for selecting and designing appropriate erosion and sediment controls.

EPA also notes that in considering the amount, frequency, intensity, and duration of precipitation in the design of stormwater controls, operators need to use the most recent data available to account for recent precipitation patterns and trends. Incorporating the most recent data available ensures that any changing precipitation patterns and trends will be captured in the estimates calculated for the expected amount, frequency, intensity, and duration of precipitation. These expected precipitation characteristics are important to ensure that stormwater controls are designed properly to minimize the discharge of pollutants in stormwater.

In this Part, EPA also encourages operators to consider the site's exposure to or recent experiences with major storms (e.g., hurricanes, storm surges, extreme or heavy precipitation, and flood events).¹ On a case-by-case basis, operators could consider implementing and making contingency plans for structural improvements to their site or enhanced or resilient stormwater controls to minimize impacts from discharges during such major storm events. Some additional measures that may be considered include, but are not limited to:

- Reinforce materials storage structures to withstand flooding and additional exertion of force;

¹ To determine if the facility is susceptible to an increased frequency of major storm events that could impact the discharge of pollutants in stormwater, the operator may reference FEMA, NOAA, or USGS flood map products at https://www.usgs.gov/faqs/where-can-i-find-flood-maps?qt-news_science_products=0#qt-news_science_products.

- Prevent floating of semi-stationary structures by elevating to the Base Flood Elevation (BFE)² level or securing with non-corrosive devices;
- When a delivery of exposed materials is expected and a storm is anticipated within 48 hours, delay delivery until after the storm or store materials as appropriate (refer to emergency procedures);
- Temporarily store materials and waste above the BFE level;
- Temporarily relocate any mobile vehicles and equipment to higher ground; and
- Develop scenario-based emergency procedures for major storms that are complementary to regular stormwater pollution prevention planning and identify emergency contacts for staff and contractors.

Part 2.1.2: Good Engineering Practices

Part 2.1.2 implements the C&D rule requirement to “install effective erosion and sediment controls.” For stormwater controls to be effective, they must be properly designed and installed. EPA notes that design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances established by State, Tribe, or local governments. Additionally, where it is appropriate to depart from such specifications, such departures must reflect good engineering practice and must be explained in the SWPPP. EPA also notes that the permit does not dictate the type of stormwater control to be used to comply with the requirements of Part 2, nor does it recommend or endorse specific products or vendors. The choice of the specific type of stormwater control to use to comply with the requirements of Part 2 is a decision for the operator.

Part 2.1.3: Complete Installation Prior to Commencement of Construction

Part 2.1.3 is intended to ensure that stormwater controls are installed and made operational to minimize pollutant discharges from the area of active disturbance. For example, prior to initial site clearing and grading activities, the operator must install perimeter controls, exit point controls, and, if applicable, storm drain inlet protections and natural buffers or equivalent sediment controls to control stormwater discharges from the initial disturbances. After this initial work is completed, the operator must install and make operational other controls, such as sediment traps or sediment basins, that are expected to treat stormwater during the remaining phases of construction. Where a project is conducted in phases, such as a large-scale road project, Part 2.1.3 requires the operator to install such controls prior to commencing earth-disturbing activities for the particular phase. After initial controls are installed, the operator must install and make operational any remaining stormwater controls as conditions allow.

Part 2.1.4: Maintain Controls in Effective Operating Condition

Part 2.1.4 implements the C&D rule requirement to “maintain effective erosion controls and sediment controls” at 40 CFR 450.21(a) and the NPDES requirement at 40 CFR 122.41(e) to “at all times properly operate and maintain all facilities and systems of treatment and control” In the past, permittees have relayed to EPA the considerable confusion that exists about the difference between routine maintenance and corrective action. One of the results of this confusion was a tendency among permittees to treat the vast majority of necessary on-site repairs to stormwater controls as routine maintenance when some were clearly more significant

² Base Flood Elevation (BFE) is the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, V1–V30 and VE. (Source: <https://www.fema.gov/node/404233>). The FEMA Flood Map Service Center can be accessed through <https://msc.fema.gov/portal/search>.

and should have been treated as corrective action under Part 5. To remedy this confusion, and to improve compliance within the permit, EPA added a definition of routine maintenance in Part 2.1.4 to include "minor repairs or other upkeep performed to ensure the site's stormwater controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control." By contrast, if a significant repair (e.g., the control needs to be temporarily taken off line and special equipment or a major replacement part is needed) or a replacement or completely different control is needed, then the operator must treat this as a corrective action under Part 5. See Part 2.1.4d.

If the repair or other upkeep qualifies as routine maintenance under Part 2.1.4b, the operator must immediately initiate the needed maintenance work, and complete such work by the close of the next business day. If it is infeasible to complete the routine maintenance by the close of the next business day, the operator is required to document why this is the case and why the repair or other upkeep to be performed should still be considered routine maintenance in the inspection report under Part 4.7.1c and complete such work no later than seven (7) calendar days from the time of discovery of the condition requiring maintenance.

EPA also clarified in Part 2.1.4c that if the operator finds that it must repeatedly (i.e., 3 or more times) make routine maintenance fixes to the same control at the same location, even if the fix can be completed by the close of the next business day, the permittee must either:

1. Complete the necessary work to correct the repeat problem under the corrective action procedures under Part 5; or
2. Include documentation as part of the inspection report explaining why the repeat problem should still be treated as routine maintenance. For example, the operator may be able to document that only minor repairs completed within the routine maintenance deadline are all that is required to ensure that the stormwater control continues to operate as designed as installed and that the stormwater control remains appropriate for the flow reaching it.

Part 2.2: Erosion and Sediment Control Requirements

Part 2.2 implements the C&D rule's requirement at 40 CFR 450.21 (a) to "design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants," as well as the requirements in 40 CFR 450.21 (b) for soil stabilization. Under the current Part 2.2 provision, the permit requires the operator to "implement erosion and sediment controls in accordance with the following requirements in this part of the permit to minimize the discharge of pollutants in stormwater from construction activities." In implementing the 2022 CGP, EPA has found instances where permittees are implementing erosion and sediment controls that fail to minimize sediment discharges as required, typically because the operators have used the incorrect or improperly sized control for the site. These cases have led to significant sediment discharges from the site to nearby waterbodies. To reduce future occurrences of these situations, the permit could more clearly articulate the overall objective of properly implemented erosion and sediment controls. For this reason, EPA proposes to add language that states clearly the design and implementation objective of these controls is to minimize the amount of sediment that is discharged off site. The specific sections of the permit within Part 2.2 include requirements that articulate what is required of CGP operators to comply with this requirement based on the effluent limitation established in the C&D rule.

Part 2.2.1: Minimize the Amount of Soil Exposed During Construction Activity

Part 2.2.1 requires the operator to minimize the area of disturbance by considering ways in which to limit the amount of land disturbed at any one time during construction. Examples

include phasing of construction activities and minimizing disturbance to existing vegetation. This requirement is consistent with the C&D rule requirement at 40 CFR 450.21 (a)(3), which requires regulated construction sites "to minimize the amount of soil exposed during construction activity." The purpose of this requirement was explained in the preamble to the C&D rule as follows:

"Minimizing site disturbance by minimizing the extent of grading and clearing is the most effective means of reducing sediment yield. This approach not only maintains some site vegetative cover but also minimizes the temporary and permanent alteration of the natural hydrology of the site and the receiving waters, thereby reducing the susceptibility of the receiving waters to long-term changes in channel incision and expansion which affects the basin's sediment regime. Short term reductions in sediment yield can also be accomplished by phasing construction so that only a portion of the site is disturbed at a time. Another effective approach is to schedule clearing and grading events to reduce the probability that bare soils will be exposed to rainfall." 74 FR 63011 (December 1, 2009).

The requirement to minimize the amount of soil exposed during construction was not included in the 2022 CGP. While there are related requirements in the 2022 CGP for stabilizing the site and including a description in the SWPPP of the "maximum area expected to be disturbed," these do not directly address the requirements of 40 CFR 450.21 (a)(3). To ensure consistency with this regulatory requirement, EPA proposes to add the exact language from 40 CFR 450.21(a)(3) into the permit.

Part 2.2.2: Natural Buffers

Part 2.2.2 implements the C&D rule's requirement to minimize the discharge of pollutants from the site by providing and maintaining "natural buffers around waters of the United States... unless infeasible." See 40 CFR 450.21 (a)(6). This requirement applies to discharges to receiving waters located within 50 feet of the site's earth disturbances, with certain exceptions described in Appendix F of the permit. Appendix F provides guidance on which sites must comply with the buffer provision, and how to implement the different compliance alternatives. EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the Agency's rationale for adopting the specific buffer requirements. See section "Provide Natural Buffers or Equivalent Sediment Controls" on pages 41 through 65 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/proposed-2027-construction-general-permit-cgp-and-related-documents>.

Part 2.2.3: Direct Stormwater to Vegetated Areas

Part 2.2.3 implements the C&D rule requirement at 40 CFR 450.21 (a)(6). This requirement mandates reduction of the discharge of sediment and other pollutants through filtration and infiltration. Operators can comply with this requirement by directing non-erosive flows leaving silt fences, filter berms, or other perimeter controls and sediment basins to natural buffers adjacent to streams or other vegetated areas on or adjacent to the property on which the construction activities will occur. Note that some site operators have found the use of level spreaders or other practices to be effective to prevent erosive discharges. These practices can help to prevent the formation of gullies and associated erosion. Examples of circumstances where it may be infeasible to direct discharges from stormwater controls to vegetated areas include those areas where pervious or vegetated areas within the project footprint are non-existent, such as in some highly urban areas.

The permit provides the operator with an exception to the requirement to maximize stormwater infiltration and filtering if, in their judgment, infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and ground water contamination concerns, or infeasible due to site conditions. Operators should consider whether factors such as specific contaminant concerns from the construction site, the underlying soils or geology, hydrology, depth to the ground water table, or proximity to source water or wellhead protection area(s) make the site unsuitable for infiltrating construction stormwater. Site conditions that may be of particular concern include proximity to: a current or future drinking water aquifer; a drinking water well or spring (including private/household wells); highly conductive geology such as karst; known pollutant hot spots, such as hazardous waste sites, landfills, gas stations, brownfields; an on-site sewage system or underground storage tank; or soils that do not allow for infiltration. Operators may find it helpful to consult EPA's [Drinking Water Mapping Application to Protect Source Waters](#) (DWMAPS). DWMAPS is an online mapping tool that can be used to locate drinking water providers, potential sources of contamination, polluted waterways, and information on protection initiatives in the site area.

Part 2.2.4: Install Perimeter Controls

The perimeter control requirements in Part 2.2.4 implement the C&D rule requirement at 40 CFR 450.21 (a) to “[d]esign, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.” The 2022 CGP requires operators to “[i]nstall sediment controls along any perimeter areas of the site that are downslope from any exposed soil or other disturbed area.” EPA changed the text of this requirement in the 2022 CGP from the 2017 CGP to clarify where perimeter controls were required. Despite EPA's previous efforts to clarify the intent of this requirement, the Agency has found during inspections conducted in the past few years that operators frequently interpret the provision as if it requires controls to be installed around the entire perimeter of the construction site regardless of whether stormwater flows in the direction of the control. Perimeter controls installed in areas that are not receiving stormwater are not achieving a stormwater control purpose and are therefore an unnecessary expenditure for the purposes of complying with the CGP. For this reason, EPA proposes to change the language of the requirement as follows:

1. Return to the formulation of the perimeter control language that appeared in the 2017 CGP, which emphasized the need to install controls along the perimeter areas of the site that have “the potential to receive stormwater from disturbed areas.”
2. Include a new definition of “perimeter control” in Appendix A so that it would be clearer what the permit is referring to when requiring these controls. The proposed definition would further emphasize the role of perimeter controls in retaining sediment on site.
3. State clearly in the requirement that no perimeter controls would be required in areas of the site that have no potential to receive stormwater.

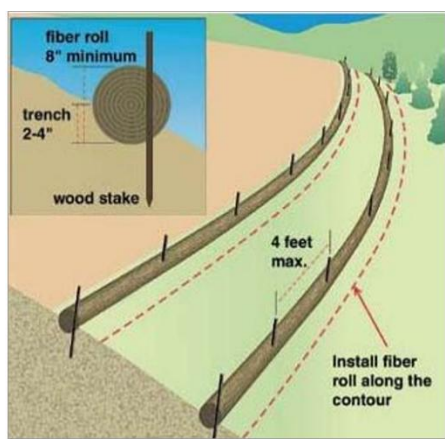
EPA is proposing these changes to help operators more effectively direct resources towards permit compliance and eliminate expenditures on extraneous stormwater controls.

EPA is proposing an additional clarification related to the need for perimeter controls adjacent to natural buffers. The 2022 CGP currently requires perimeter controls to “be installed upgradient of any natural buffers established under Part 2.2.1.” The provision then goes on to state that the upgradient perimeter requirement does not apply in situations where either a natural buffer that is less than 50 feet can be provided, or where a natural buffer of any size cannot be provided on the site. Following the issuance of the 2022 CGP, EPA realized in retrospect that not requiring perimeter controls adjacent to natural buffers when the buffer is less

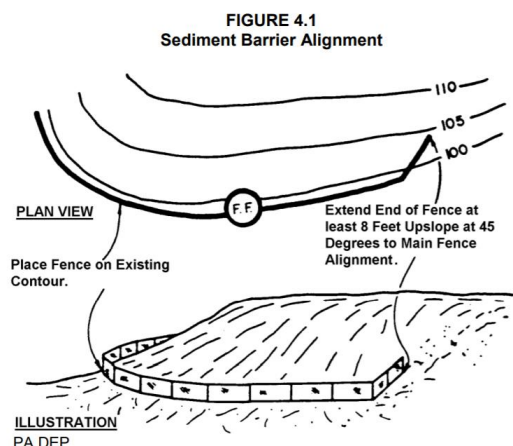
than 50 feet was an error and inconsistent with permit requirements that predated the 2022 CGP requiring perimeter controls to be installed in addition and adjacent to any buffer.

The natural buffer requirements were first included in the 2012 CGP. Since then, EPA has specified that the operator is required to “ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site’s erosion and sediment controls (for example, you must comply with the Part 2.2.3 requirement to install sediment controls along any perimeter areas of the site that will receive pollutant discharges) ...” Appendix F, Part F.2.3, p. F-7. Since the issuance of the 2012 CGP, EPA required a perimeter control to be installed regardless of the size of the natural buffer until the 2022 CGP. Therefore, the current 2022 CGP permit text exempting narrower buffers from the perimeter control requirement is inconsistent with EPA’s pre-2022 permit requirement. EPA also anticipates it is unnecessary to specify that perimeter control adjacent to the natural buffer is not needed where there is no buffer of any size at the site. To address these inconsistencies, EPA proposes a clarification that will ensure consistency with the 2012 CGP (and 2017 CGP) approach requiring that perimeter controls be installed adjacent to natural buffers.

EPA also includes additional perimeter control installation and maintenance requirements, such as the requirement in Part 2.2.4.b to “install the perimeter control on the contour of the slope and extend both ends of the control up slope (e.g., at 45 degrees) forming a crescent rather than a straight line.” The purpose of this requirement is to prevent stormwater from flowing around the sides of the perimeter control. This requirement is consistent with existing standards for the design of common perimeter controls, including EPA’s specifications for silt fences in its [Small Residential Lot SWPPP Template](#) (see design criteria for use of a Sediment Silt Fence Barrier, p. 27) and other State stormwater Best Management Practice (BMP) guidelines. For instance, the Minnesota Pollution Control Agency’s [Stormwater Manual](#) specifies that using fiber logs as perimeter controls on slopes requires that they be installed “on the contour, with ends turned upslope slightly to deter bypasses.” See the [Sediment control practices – Perimeter controls for disturbed areas](#) webpage. The webpage includes the following figure to illustrate what installing the control on the contour should look like:



The Pennsylvania Department of Environmental Protection’s [Erosion and Sediment Pollution Control Program Manual](#) similarly specifies that “[t]he ends of sediment barriers should be turned upslope at 45 degrees to the main barrier alignment for a distance sufficient to elevate the bottom of the barrier ends to the elevation of the top of the barrier at the lowest point. This is to prevent runoff from flowing around the barrier rather than through it.” (See p. 81). The State manual includes an illustration of how this should look in practice as follows:



The permit also includes a provision specifically focused on proper maintenance of perimeter controls. Under the provision, the operator is required after a storm event to extend the perimeter control or repair any undercut areas, whichever applies, if there is evidence of stormwater circumventing or undercutting the control. See Part 2.2.4c.ii. The permit's requirement to remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control (Part 2.2.3c.i) implements the C&D rule requirement to "maintain effective erosion controls and sediment controls" at 40 CFR 450.21 (a).

The requirement also provides flexibility for linear construction sites by allowing them to document in the SWPPP when it is infeasible to install perimeter controls in certain areas of the site, and instead allowing the use of other types of practices that will adequately minimize pollutant discharges to perimeter areas of the site. EPA established this provision to recognize that for some linear projects, perimeter controls are not always feasible (e.g., due to limited available space to install perimeter controls), and that other types of practices can be employed to minimize pollutant discharges. For example, in urban areas where, due to right-of-way limitations, perimeter controls could cause a safety hazard to vehicles and/or pedestrians, perimeter controls may not be feasible. The types of other practices to be implemented to adequately minimize pollutant discharges from perimeter areas must be based on site-specific conditions and reflect good engineering judgment.

While perimeter controls may not be feasible in the above circumstances, operators are reminded of the requirement under Part 2.1.1 to account for the required design factors for their stormwater controls and their overall obligation in Part 2 to minimize sediment discharges. In addition, the operator must ensure that sediment and other pollutants, which may escape the area of disturbance onto off-site streets, other paved areas, and sidewalks, are removed consistent with the mitigation requirements in Part 2.2.5d.

Part 2.2.5: Minimize Sediment Track-Out

Part 2.2.5 requires the operator to minimize sediment track-out from the site through implementation of certain practices, including restricting vehicle use to properly designated exists; using appropriate stabilization techniques at exits on to paved roads; implementing additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit; and cleaning up sediment that has been tracked out onto paved surfaces from the site within a designated timeframe. The permit provides several examples of controls that can be implemented to satisfy this requirement. Collectively, the requirements in Part 2.2.5 will result in the minimization of sediment that has been tracked out from the site onto paved surfaces and subsequently discharged in stormwater. This requirement implements the C&D rule requirement

to “minimize sediment discharges from the site,” “minimize the amount of soil exposed during construction activity,” “minimize sediment discharges,” and “minimize the discharge of pollutants from equipment and vehicle washing”

The exception language in this requirement reflects the guidance included in EPA's FAQ for the corresponding section of the 2012 permit (i.e., Part 2.1.2.3b). Portions of this FAQ are repeated here to further explain the meaning of these requirements for linear utility projects (citations below are to the 2012 CGP):

EPA acknowledges that the use of exit points for certain narrow linear utility projects can differ from traditional residential or commercial construction projects, where the same exit points are consistently used throughout the life of a project. Linear utility project disturbances, which include natural gas and electric transmission lines, typically consist of multiple disconnected areas of disturbance associated with access roads, stringing pull stations, laydown/staging yards, and pads. Because exit point stabilization is only required for points that exit onto paved roads, it will often be the case that exit point stabilization and the other track-out controls described in Parts 2.1.2.3.b [Part 2.2.4.b of the 2017 CGP] and 2.1.2.3.c [Part 2.2.4.c of the 2017 CGP] of the 2012 EPA CGP will not be required for linear utility projects that use existing unpaved roads to exit their work locations. However, to the extent that any sediment is tracked from existing access points onto paved roads, the requirement to remove tracked-out sediment in Part 2.1.2.3.d [Part 2.2.4.d of the 2017 CGP] still applies.

Linear utility projects are also often constructed in phases with different access points corresponding to different phases or separate work locations within each phase. When access points are created for linear utility projects, they are often constructed as short ingress/egress locations from nearby existing roads, and are often used episodically and only for very short durations over the life of the project. Therefore, the types of exit point stabilization and other controls that are appropriate for these types of access points may differ from construction projects where access points are used more heavily and consistently throughout the life of the project. Examples of exit point stabilization techniques and controls that may be appropriate for access points that are used episodically and only for very short durations by such linear utility projects could include, but are not limited to, the following:

- Using scheduling techniques to prevent the use of exit points during wet periods;
- Minimizing exit point use by keeping vehicles on site to the maximum extent possible;
- Limiting exit point size to the width needed for vehicle usage and using scarifying and compaction techniques on the soil;
- Using woody vegetation chips from the clearance of shrubs and trees on the exit point surface;
- Avoiding locating exit points in environmentally sensitive areas (e.g., wetlands, karst areas, steep slopes); and

- Conducting routine inspections (e.g., daily on scheduled work days) at exit points to assess the need to implement the mitigation measures in Part 2.1.2.3.d [Part 2.2.4 of the 2017 CGP].

Exit point stabilization techniques must be selected to ensure that sediment track-out is minimized. To the extent that any sediment is tracked from the existing access point onto paved roads, all operators must ensure that it is removed consistent with the mitigation requirements in Part 2.1.2.3.d [Part 2.2.4.d of the 2017 CGP] (e.g., sweeping, shoveling, vacuuming, or other similar means). For all projects, the exit point stabilization and controls must be selected based on site-specific conditions to meet the overall requirement in Part 2.1.2.3 [Part 2.2.4 of the 2017 CGP] to minimize sediment track-out, and must take into account safety considerations. The controls that are selected must also be documented in the SWPPP.

Note that EPA does not allow for hosing down or sweeping pollutants into a stormwater conveyance where it is connected to a sediment basin, sediment trap, or similarly effective controls. EPA is concerned that this practice will lead to these controls being compromised, and that sweeping, shoveling, and vacuuming are standard and readily available approaches for removing sediment track-out.

Part 2.2.6: Manage Stockpiles or Land-Clearing Debris Piles

Part 2.26 requires operators to manage stockpiles or land clearing debris piles composed of sediment or soil to prevent the discharge of sediment from stockpiled soil and dirt on the site. This provision does not apply to the storage of rock, such as rip rap, landscape rock, pipe bedding gravel, and boulders. Requirements for these materials are found in Part 2.3.3.a.

Practices required by this Part include locating these piles outside of natural buffers and away from drainage features, storm drain inlets, and areas of concentrated stormwater flow. Operators must also install sediment barriers along downgradient perimeter areas of stockpiles and provide cover or other appropriate temporary stabilization for stockpiles if they will be unused for 14 or more days. The required use of "appropriate temporary stabilization" when a pile will be unused ensures that pollutant discharges from storm events are minimized, while at the same time it addresses the practicability of these controls by limiting this requirement to times when the piles are inactive. Cover or appropriate temporary stabilization for these piles, such as tarps, blown straw, and hydroseeding, are all readily available and common erosion and sediment control products and technologies that operators will likely already be using to comply with the stabilization requirements in Part 2.2.15. The use of these technologies for covering or temporarily stabilizing stockpiles when piles are inactive poses a small incremental cost relative to the total cost of all other stormwater controls on the site. In addition, some cover technologies, such as tarps, can be reused multiple times on the same site due to their durability and longevity. This requirement prohibits hosing down or sweeping pollutants into a stormwater conveyance where it is connected to a sediment basin, sediment trap, or similarly effective controls due to the concern that this practice will lead to these controls being compromised.

Part 2.2.7: Minimize Dust

This requirement is intended to minimize the discharge of sediment in stormwater from the generation of dust. Dust suppression techniques prevent dust from being generated, minimizing the potential for the dust to accumulate where it is likely to discharge from the site in stormwater discharges. EPA is proposing to add additional information in the footnotes of this requirement recommending best practices that can be effective at minimizing dust in

stormwater discharges to help operators evaluate ways to comply with this permit requirement. One proposed footnote emphasizes the importance of repeat applications of water if spraying is being used at the site to minimize dust. Another proposed footnote includes a link to EPA's dust control fact sheet and suggests how construction phasing can be used to indirectly limit dust pollution.

Part 2.2.8: Minimize Steep Slope Disturbances

The requirement in Part 2.2.8 implements the C&D rule requirement to “minimize the disturbance of steep slopes” at 40 CFR 450.21(a)(4). The permit does not prevent or prohibit disturbance on steep slopes. EPA recognizes that for some projects, disturbance on steep slopes may be necessary for construction (e.g., a road cut in mountainous terrain). If disturbances to steep slopes are required for the project, EPA would recognize that it is not feasible to avoid the disturbance of steep slopes. EPA clarifies in a footnote that where disturbance to steep slopes cannot be avoided, operators should consider implementing controls suitable for steep slope disturbances that are effective at minimizing erosion and sediment discharge (e.g., preservation of existing vegetation, hydraulic mulch, geotextiles and mats, compost blankets, earth dikes or drainage swales, terraces, velocity dissipation devices). To identify slopes and soil types that are of comparatively higher risk for sediment discharge in areas of the country where the CGP is in effect, operators can use the tables in Appendix F (see Tables F-2 thru F-6). EPA also notes that the requirement to minimize the disturbance of steep slopes does not apply to the creation of soil stockpiles. EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning this requirement. See part 2.1.2.6 “Minimize the Disturbance of Steep Slopes” on pages 67 through 68 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

Part 2.2.9: Preserve Topsoil

Part 2.2.9 implements the C&D rule requirement to preserve topsoil, unless infeasible, at 40 CFR 450.21(a)(8). The requirement to preserve topsoil helps to maintain the soil structure on construction sites and provides a growing medium for vegetative stabilization measures. Better vegetative stabilization reduces erosion rates of the underlying soil and increases the infiltrative capacity of the soil, thereby reducing the amount of sediment transported to downslope sediment and perimeter controls. Topsoil can be preserved by stockpiling it on the site for later use (e.g., for vegetative stabilization), or by limiting disturbance and removal of the topsoil and associated vegetation. For example, topsoil can be preserved by limiting clearing and grading to only those areas where necessary to accommodate the building footprint. EPA notes that some projects may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases, EPA recognizes that preserving topsoil at the site would not be feasible. In addition, some sites may not have space to stockpile topsoil on site for later use, in which case it may also not be feasible to preserve topsoil. EPA is aware that stockpiling of topsoil in off-site locations, or transfer of topsoil to other locations, is frequently used in these situations and EPA would view this as acceptable practice. However, EPA notes that stormwater discharges from any construction support activities meeting the requirements of Part 1.2.1c are subject to the permit requirements.

EPA is proposing a few relatively minor changes to this requirement, including the following:

- Remove reference to “native” topsoil in the requirement. EPA has heard from permittees under the 2022 CGP who have expressed confusion about the meaning of the term “native” in the context of preserving topsoil. The C&D rule at 40 CFR 450.21(a)(8) requires topsoil to be preserved unless infeasible, but it does not speak to whether or not the

topsoil is native. Hence, this proposed change would be more consistent with the plain language of the regulations at 40 CFR 450.21 (a)(8). Including the word native in the requirement may also have the unintended effect of discouraging operators from deciding to replace the current soil with a higher quality soil that is more conducive to vegetative growth.

- Provide additional guidance in the footnotes that would include the practice of replacing the site's current soil with higher quality soil as an example of ways to preserve topsoil in compliance with the permit requirement.
- Clarify the SWPPP requirements with respect to documenting (1) where on the site topsoil will be protected or soil conditioning will occur (unless infeasible), and (2) topsoil preservation practices (or the reasons preserving topsoil at the site is infeasible).

Part 2.2.10: Minimize Soil Compaction

Part 2.2.10 implements the C&D rule requirement to “minimize soil compaction.” The requirement is intended to allow for infiltration and retention of stormwater to reduce stormwater discharge volume and velocity. To comply with this requirement, operators may either restrict vehicle and equipment use on areas that will be vegetatively stabilized or where infiltration practices will be installed, or use soil conditioning techniques to decompact soils to support vegetative growth. Specific types of soil conditioning techniques could include deep-ripping and decompaction or sub-soiling. To further assist operators in complying with this requirement, EPA proposes a new note in Part 2.2.10 suggesting several additional practices that may further the operator's efforts to minimize soil compaction. These include designating specific areas where heavy equipment and vehicles are permitted to limit the potential area of compaction. To spread the weight of the heavy equipment and minimize compaction in these areas, EPA suggests spreading layers of mulch with sheets of plywood on top in these areas.

EPA notes that the requirement to minimize soil compaction does not apply to areas that will not be used for final vegetative stabilization or for areas where infiltration practices will not be installed. For example, the requirements do not apply to disturbed areas that will become paved surfaces, such as roads, foundations, footings, or on embankments, or on areas where soil compaction is necessary by design.

The requirement to use soil rehabilitation or conditioning techniques is not conditioned on the feasibility of using such practices. In EPA's judgment, requiring these practices “as necessary” provides adequate flexibility. EPA notes that it would not find it to be “necessary” to use soil conditioning techniques in an area of the site where it was unsafe either because the required equipment is unable to be operated on steep slope areas or these areas are unlikely to be compacted in the first place given the safety concerns of operating heavy equipment in this area.

Part 2.2.11: Protect Storm Drain Inlets

Part 2.2.11 implements the C&D rule requirement at 40 CFR 450.21 (a)(5) to “minimize sediment discharges from the site” by requiring stormwater inlets to be protected with sediment controls during construction and to maintain the inlet protection measures as sediment accumulates, the control becomes clogged, or performance is compromised. Inlet protection measures prevent sediment-laden stormwater from being discharged into storm drains, and ultimately surface waters. The maintenance requirements support the need for the inlet measures to be kept in working condition so that they are effective at minimizing the discharge of pollutants. Note that inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

EPA includes an exception to the inlet protection requirement where the inlet drains to a sediment basin, sediment trap, or similarly effective control. Making an exception to the requirements of Part 2.2.11a is appropriate given the effectiveness of sediment basins and equivalent measures at removing sediment from stormwater, and that other stormwater design manuals appear to adopt this same approach. For instance, Pennsylvania's [Erosion and Sediment Pollution Control Program Manual](#) (Technical Guidance Number 363-2134-008 (March 2012)) states that "[i]nlet protection shall not be required for inlet tributary to sediment basin or trap." See p. 99. Also, Maryland's [Standards and Specifications for Soil Erosion and Sediment Control](#) (December 2011) states that "Inlet protection is not required and should not be provided if storm drain diversions have been installed and are functioning properly." Temporary storm drain diversion is defined as "A temporary swale or pipe that redirects a storm drain system or outfall channel into a sediment trap or basin." See p. C.15 of the Maryland specifications document.

EPA proposes to clarify in Part 2.2.11b that accumulations of vegetation or other construction-related debris adjacent to any inlet protection measures should be removed, consistent with Part 2.1.4, to ensure the control is properly maintained so that it remains in effective operating condition. This change would ensure that blockages to the inlet control from vegetation and other construction debris are removed in the same manner that blockages caused by the build-up of sediment are already required in Part 2.2.10b (would change to Part 2.2.11b) of the 2022 CGP to be removed.

Part 2.2.12: Minimize Erosion of Stormwater Conveyances

Part 2.2.12 implements the C&D rule requirement to "control stormwater discharges... to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points." Examples of stormwater controls that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of a stormwater conveyance and at the outfall to slow down stormwater flow.

Part 2.2.13: Sediment Basins or Similar Impoundment

Part 2.2.13 outlines the requirements that apply to installation of sediment basins or similar impoundments. Sediment basins are used on construction sites to minimize sediment discharges. They are typically placed at or near low points of drainageways to temporarily detain stormwater discharges, allowing sediment particulates to settle. Sediment basins are also designed to reduce peak flowrates, minimizing downstream flooding and channel erosion. At the point of discharge, which is typically a pipe or channel, installation of riprap, or other stabilization measures are often necessary because the concentrated discharge can cause erosion and additional pollutant discharges to receiving waters. Sediment basins are also designed to reduce flow duration impacts by reducing the total volume of stormwater being discharged or by providing extended detention to reduce discharge rates. The purpose of the requirements in this part is to provide specific design and maintenance requirements for the proper implementation of sediment basins, if used on a site. EPA includes information on its website at https://www.epa.gov/system/files/documents/2022-01/2022-cgp_2-year-24-hour-storm-frequencies.pdf to assist operators in determining their local 2-year, 24-hour storm event for the purposes of basin design. These expected precipitation characteristics are important to ensure that stormwater controls are designed properly to minimize the discharge of pollutants in stormwater.

The requirement to situate the basin or impoundment outside of any receiving water and any natural buffers, and the requirement to design the basin or impoundment to avoid collecting water from wetlands have been included in the CGP since the 2003 permit. The requirement to utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment (unless infeasible) implements the following C&D rule requirement at 40 CFR 450.21(f). EPA notes in the permit that the circumstances in which it will be infeasible to design outlet structures in this manner should be rare. Exceptions may include areas with extended cold weather and where using surface outlets may not be feasible during certain time periods (although it is expected that they would be used during other periods). If the operator determines that it is infeasible to meet this requirement, the operator must provide documentation in the SWPPP to support its determination, including the specific conditions or time periods when this exception will apply.

EPA also includes a requirement to use erosion controls and velocity dissipation devices to prevent erosion of the sediment basin and the inlet and outlet to implement the C&D rule requirement to “design, install and maintain effective erosion and sediment controls to minimize the discharge of pollutants,” and the requirement to “control stormwater discharges ... to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.” The requirement to conduct appropriate maintenance to remove accumulated sediment implements the C&D rule requirement to “maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.”

EPA inspections under the 2022 CGP found instances where significant downstream sediment discharges had occurred as a result of operators immediately starting to use the basin after excavation and prior to sufficient stabilization. To address this issue, for those operators installing a sediment basin at their site, EPA proposes to require stabilization measures to be implemented prior to its first use to ensure that soil from the basin itself, and related conveyance structures and discharge points, do not become a source of sediment discharge. The specific type of stabilization, whether vegetative or non-vegetative, would be left to the discretion of the operator and whatever design specifications may be commonly used or may be appropriate in the area of the project. This proposed requirement is commonly recommended as an industry practice in stormwater control manuals. See, for example, relevant guidelines in the following resources: [Maryland](#) (2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control), [Michigan](#) (MDEQ NPS BMP Manual, sediment basin fact sheet), [Minnesota](#) (Minnesota Stormwater Manual, sediment traps and basins), [Mississippi](#) (Mississippi Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas, Chapter 4, Sediment Basins), [Pennsylvania](#) (Pennsylvania Department of Environmental Protection Erosion and Sediment Control Program Manual), [Washington, DC](#) (District of Columbia, Stormwater Management Guidebook), [U.S. Department of Agriculture](#) (Natural Resources Conservation Service, New Jersey Conservation Practice Standard, Sediment Basin (Code 350)), and the [Natural Resources Conservation Service](#) (Natural Resources Conservation Service, Conservation Practice Standard, Pond (Code 378)).

Part 2.2.14: Use of Treatment Chemicals

Part 2.2.14 establishes the minimum requirements that apply to the use of treatment chemicals at permitted construction sites.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the Agency's rationale supporting these requirements. See section “Use of Treatment Chemicals. (Part 2.1.3.3)” on pages 71 through 75 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

EPA proposes to remove the requirement in subpart g of this section “to ensure the use of such chemicals will not result in discharges that do not meet water quality standards” to ensure consistency with the *San Francisco* decision. See the discussion below for Part 3 for further background on the reason for this change. EPA notes that with this proposed change the operator would still remain subject to any additional measures specified by EPA (established pursuant to subpart g of this section) as well as the applicable water quality requirements of Part 3 of the CGP.

Part 2.2.15: Site Stabilization

Part 2.2.15 implements the C&D rule requirement for soil stabilization in 40 CFR 450.21 (b). This part requires the operator to implement and maintain stabilization measures that minimize erosion from exposed portions of the site.

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

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

In the C&D rule, EPA emphasizes the importance of effective and prompt stabilization of soils exposed throughout the construction process to reduce the amount of soil eroded on construction sites and the amount of sediment and other pollutants discharged from the site. EPA indicated in the rule that initiating soil stabilization measures immediately after land has been disturbed and construction activity has ceased is an important non-numeric effluent limitation. EPA also stated that it “sees no compelling reason why permittees cannot take action immediately to stabilize disturbed soils on their sites” (see 74 Fed. Reg. 63005, December 1, 2009). EPA also observes that erosion controls, such as mulch, are readily available and operators need only plan accordingly to have appropriate materials and laborers present when needed. *Ibid.*

Furthermore, “simply providing some sort of soil cover on these areas can significantly reduce erosion rates, often by an order of magnitude or more. Vegetative stabilization using annual grasses is a common practice used to control erosion. Physical barriers such as geotextiles, straw, rolled erosion control products and mulch and compost are other common methods of controlling erosion. Polymers (such as PAM) and soil tackifiers are also commonly used. These materials and methods are intended to reduce erosion where soil particles can be initially dislodged on a C&D site, either from rainfall, snow melt or up-slope runoff.” See 74 Fed. Reg. 63012.

The permit carries forward these important principles and factors by incorporating specific provisions intended to implement the C&D rule's stabilization deadline requirements. The following section provides support for these provisions.

Stabilization Deadlines (Part 2.2.15a)

Deadline to Initiate Stabilization

This part of the permit establishes the deadlines for initiating and completing stabilization for all sites that do not qualify for an exception in subpart b. The permit specifies that the operator must initiate the installation of soil stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or are temporarily inactive for 14 or more calendar days. EPA explains in the permit that, for the purposes of this provision, the term "immediately," as used to define the deadline for initiating stabilization measures, means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased. The permit also provides examples of activities that would constitute the immediate initiation of stabilization:

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

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

Deadline to Complete Stabilization

The C&D rule, at 40 CFR 450.21(b), requires that a deadline to complete stabilization be established by each permit authority. The CGP's stabilization deadlines are based on the concept of phasing construction disturbances. The intent of this approach is to provide an incentive to disturb less land at any given period of time by providing longer stabilization timeframes if the disturbance is kept below a threshold level. The approach described below also provides improved protection against erosion, by ensuring that large disturbed areas are stabilized sooner. This approach is also consistent with the C&D rule requirement at 40 CFR 450.21(a)(3) to "minimize the amount of soil exposed during construction activity."

The permit specifies that for sites that disturb a total of five acres or less (≤ 5.0) at any one time over the course of a project, the operator must complete the installation of stabilization

measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated. This includes sites disturbing more than (>5.0) acres total over the course of a project, but that limit disturbance at any one time to five acres or less (≤ 5.0). For sites that will disturb more than a total of five acres (>5.0) at any one time over the course of a project, the operator must complete the installation of stabilization measures as soon as practicable, but no later than 7 calendar days after stabilization has been initiated. The deadline for sites discharging to sediment- and nutrient-impaired waters and high quality waters remains unchanged from the 2012 CGP (within 7 calendar days), and the exceptions for sites in arid, semi-arid, and drought-stricken areas and for operator affected by circumstances beyond their control also remain unchanged from the 2012 CGP.

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

For the purposes of the stabilization deadline requirements in Part 2.2.15.a, "limiting disturbances to five (5) acres or less at any one time" means that at no time during the project do the cumulative earth disturbances exceed five (5) acres. The permit provides the following examples as limiting disturbances at any one time to five (5) acres or less:

1. The total area of disturbance for a project is five (5) acres or less.
2. The total area of disturbance for a project will exceed five (5) acres, but the operator ensures no more than five (5) acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to "free up" land that can be disturbed without exceeding the 5-acre cap to qualify for the 14-day stabilization deadline. For instance, if an operator completes stabilization of two (2) acres of land on a five (5)-acre disturbance, then two (2) additional acres could be disturbed while still qualifying for the longer 14-day stabilization deadline.

Furthermore, the stabilization deadline for a site will change if disturbances exceed five (5) acres. The important determiner of which stabilization deadline applies is the total amount of disturbance occurring at any one time during the course of the project. If at any point during the course of the project, total land disturbance exceeds five (5) acres, the deadline to complete stabilization for this portion of the project is within seven (7) calendar days of initiating stabilization. This deadline applies regardless of the fact that a previous phase of construction may have limited disturbance to five (5) acres or less and was able to take advantage of the 14-day deadline for stabilization. For instance, if an operator commences work on a 20-acre project by clearing and grading a five (5)-acre portion of the site, and while that construction is ongoing and prior to stabilization the operator clears and grades another three (3)-acre area, the operator must comply with the seven (7)-day stabilization deadline because the amount of disturbed area on the site at any one time exceeds the five (5)-acre threshold. If total land disturbance at any one time is subsequently reduced to five (5) acres or less, the deadline to complete stabilization will return to within 14 calendar days. Therefore, operators have the flexibility to disturb more land when necessary but must stabilize sooner because more land is unprotected and vulnerable to erosion and sediment transport during storm events. This approach intends to provide the incentive to stabilize enough land to bring total disturbance at any one time back under the five (5)-acre threshold so that the operator can resume receiving

the benefit of the longer 14-day stabilization deadline. The approach is also intended to ensure greater protection for larger areas of site disturbance.

EPA proposes to clarify that the deadlines in Parts 2.2.15a and b are intended to apply to the “installation” of stabilization measures. This is intended to distinguish between the deadlines in this section relating to the completion of steps to initiate stabilization from the criteria for final stabilization in Part 2.2.15c. As proposed, this change would not alter any of the permit’s existing requirements related to the stabilization deadlines.

EPA incorporates by reference the discussion in the 2017 CGP fact sheet concerning the Agency’s rationale supporting these requirements. See section “Background on the Development of the Modified Stabilization Deadlines.” on pages 43 to 45 of the 2017 fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

Wildlife Considerations for Stabilization Measures

It is common for some type of netting to be used in connection with seeding or planting to guard against erosion while vegetation is established for stabilization. If netting will be used at the site, EPA encourages operators to consider employing products that have been shown to minimize impacts on wildlife. For instance, the U.S. Fish & Wildlife Service provides recommendations on the type of netting practices that are considered “wildlife friendly,” including those that use natural fiber or 100 percent biodegradable materials and that use a loose weave with a non-welded, movable jointed netting, as well as those products that are not wildlife friendly including square plastic netting that are degradable (e.g., photodegradable, UV-degradable, oxo-degradable), netting made from polypropylene, nylon, polyethylene, or polyester. Other recommendations include removing the netting product when it is no longer needed. See

https://www.fws.gov/midwest/eastlansing/library/pdf/WildlifeFriendlyErosionControlProducts_revised.pdf for further information. There also may be State, Tribal, or local requirements or recommendations about using wildlife friendly erosion control products. EPA includes an additional note in footnote 14 advising permittees of an additional U.S. Fish & Wildlife Service resource that lists products that fit the criteria found in scientific literature as wildlife friendly.

Exceptions to the Deadlines for Initiating and Completing Stabilization (Part 2.2.15.b)

This section of the permit establishes exceptions for when alternative stabilization timeframes and requirements apply. EPA proposes several changes to the requirements in this section based on feedback the Agency received during the 2022 CGP permit term.

Arid, Semi-Arid, and Drought-Stricken Areas

The first set of proposed changes address the stabilization requirements for sites located within arid, semi-arid, or drought-stricken areas related to using vegetative measures to stabilize the site. Based on questions raised by permittees over the course of the 2022 CGP thus far, EPA has heard that the overlapping requirements that apply to sites in these areas are overly complicated. For any particular site located in an arid, semi-arid, or drought-stricken area under the 2022 CGP, the operator must first determine if stabilization measures will be implemented during the “seasonally dry period” since the alternative stabilization requirements for these areas only apply during the seasonally dry period for the project area. Although EPA attempted to make it easier for operators to determine if they are operating in a seasonally dry period with the introduction of the [Seasonally Dry Period Locator Tool](#) for the 2022 CGP, the fact that a site could have multiple stabilization deadlines depending on the time of year when stabilization is scheduled to occur has proven to be confusing to some operators. Adding to this confusion is

the fact that other permit sections may also affect the stabilization deadlines and requirements for a particular site. For example, under the 2022 CGP, the operator needs to know whether it will disturb more or less than five acres since differing deadlines apply to either circumstance. Furthermore, if the same site discharges to a Tier 2, 2.5, or 3 water (otherwise referred to as a “sensitive water”), the permit deadlines for stabilization potentially conflict with those deadlines that apply based on acreage of disturbance and the seasonally dry period. With these complexities in mind, EPA has identified an opportunity to make these requirements easier to understand.

To simplify the stabilization requirements for arid, semi-arid, and drought-stricken areas, EPA proposes the following streamlining measures:

- Removing the “seasonally dry period” determination – Under the proposed revision, EPA would remove the seasonally dry period consideration from this section so that the exception would apply to all sites located in arid, semi-arid, and drought-stricken areas. The reason for making this proposed change is that, in practice, tying the stabilization deadline exception to distinct months during a calendar year can prove to be complicated since anticipating the precise start and stop times of stabilization is not always an exact science given the likelihood of schedule changes during construction.
- Clarifying when faster non-vegetative stabilization is required – Under the proposed revisions to the arid, semi-arid, and drought-stricken area exception, EPA would make clear that a site would be required to install non-vegetative stabilization measures within seven calendar days of a permanent or temporary cessation of construction (instead of the 14-day deadline) if it either discharges to a sensitive water or it will disturb more than five acres at any one time. Adding information about this existing requirement that apply in these two aforementioned discharge scenarios is intended to make it easier for the operator to determine which deadlines it must comply with depending on the site-specific circumstances. Under the current 2022 CGP these requirements are explained in several different sections of the permit, which has led to confusion as to which deadline applies for some operators.

Additional Change Related to Lands of Exclusive Federal Jurisdiction

EPA proposes to correct the unintended omission in Part 2.2.14b.iv (which would now become Part 2.2.15b.ii in the proposed 2027 CGP) of a reference to sites discharging to sensitive receiving waters within Lands of Exclusive Federal Jurisdiction to clarify that these sites are also covered by this exception to the stabilization deadlines. When EPA modified the 2022 CGP in 2025, the Agency made it clear in Part 10.2 that sites discharging to Lands of Exclusive Federal Jurisdiction must comply with the stabilization deadlines in Part 2.2.14b.iv (which would now be Part 2.2.15b.ii in the proposed 2027 CGP). However, EPA did not similarly make it clear in this section that the modified stabilization deadlines for sensitive waters also apply to discharges to waters within Lands of Exclusive Federal Jurisdiction. This correction would be consistent with EPA’s intent to include sites discharging to waters within Lands of Exclusive Federal Jurisdiction, along with other sites discharging to sensitive waters, in the requirement to comply with different stabilization deadlines.

Frozen or Snow-Covered Conditions

During the permit term for the 2022 CGP, EPA heard from permittees about the need to provide more clarity on the stabilization deadlines that apply if sites experience construction delays due to unforeseeable winter weather conditions (such as unforeseeable snow or frozen

ground conditions). The construction delays may result in triggering the current permit requirement to stabilize the exposed portions of the site for 14 or more days of inactivity. At least one permitted site faced this same situation as a result of an unexpected snowstorm during the current permit term. Although there is a provision in the current CGP addressing “unforeseen circumstances” (Part 2.2.15b.ii) such as “problems with supply of seed stock or with the availability of specialized equipment and unsuitability of soil conditions due to excessive precipitation and/or flooding,” this provision is not directly applicable to the unforeseeable winter weather conditions scenario described here. To provide more clarity on this issue and flexibility in the timelines for unforeseeable winter conditions that could cause unplanned delays in construction, EPA proposes to clarify that construction sites in these circumstances can temporarily suspend the need to stabilize the site while the conditions persist. When the conditions causing the delay in construction clear up to provide accessible building or stabilization conditions, the proposed addition of a new provision (Part 2.2.15b.v) would enable the operator to either continue construction activities or, if construction will not be recommencing within 24 hours, to install temporary stabilization measures, whichever applies, in compliance with the permit. In the footnotes associated with this requirement, EPA proposes to clarify what would qualify as “unforeseeable” and “frozen ground” conditions based on the definition used by the National Snow and Ice Data Center. Refer to <https://nsidc.org/learn/parts-cryosphere/frozen-ground-permafrost>.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the unmodified portion of these requirements. See section VII.2 “Stabilization Requirements (Part 2.2)” on pages 76 through 82 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

Final Stabilization Criteria (Part 2.2.15.c)

This section establishes the performance criteria for fully stabilized sites, whether the operator will be using vegetative or non-vegetative measures, or both. Alternative requirements for specific situations are also specified in this section.

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

EPA is not proposing changes to the substantive requirements of this section. EPA is, however, proposing to include several clarifications related to both vegetative and non-vegetative stabilization. These proposed clarifications are summarized as follows:

- Vegetative stabilization, guidance on native species – EPA proposes a new footnote (footnote 21) that would provide information and resources to further inform operators about how to provide “vegetative cover native to local undisturbed areas” as required by subsection c. The footnote would clarify that within the area of stabilization operators should avoid using invasive or introduced vegetative species. The footnote would also refer operators to the U.S. Geological Survey’s United States Register of Introduced and Invasive Species to use as a potential reference for such species.
- Vegetative stabilization, 70 percent cover requirement – Over the course of the 2022 CGP thus far, EPA has found that there continues to be confusion among permittees

regarding the meaning of the 70 percent cover requirement in Part 2.2.15c.i. EPA has observed this confusion during its inspections as well as in reviewing submitted stabilization photos during the current permit term. See *2022 Construction General Permit (CGP) - Evaluation of Stabilization Photographs*, EPA # 833-R-26-001 (EPA, 2026), available in the docket for the proposed permit at regulations.gov for Docket ID No. EPA-HQ-OW-2025-0760. While some of the confusion appears to relate to when the permittee is required to satisfy the 70 percent cover requirement for the stabilized area, others have misinterpreted the provision as requiring that the ratio of native species required to be used at the site be 70 percent. To address this confusion, EPA proposes to clarify that the 70 percent requirement would be met when vegetation has grown to the point that 70 percent vegetative cover is provided. EPA would also clarify that the reference condition for the 70 percent cover requirement is the vegetative cover that is typical of a natural, undisturbed area in the same locality.

- Non-vegetative stabilization – The current requirement in subsection c.ii includes a footnote reference to geotextiles as examples of permanent non-vegetative stabilization measures that could be used to satisfy this requirement. EPA proposes to replace the reference to geotextiles in this part of the permit with a catchall reference to other State or locally approved measures that provide longer-term stabilization of the underlying soil. While geotextiles can be used effectively as temporary cover for exposed soils, as a layer between the soil and aggregate cover, or for temporarily holding seeds, fertilizers and topsoil in place while vegetation becomes established,³ EPA does not expect that they would provide sufficient protection on their own over time to permanently stabilize exposed soil. The reason for this is that geotextiles when exposed to sunlight are expected to degrade rapidly, thereby reducing their effectiveness in stabilizing soil when used on their own and not in combination with seed or other vegetative measures or aggregate cover.

Part 2.3: Pollution Prevention Requirements

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

Part 2.3.1: Equipment and Vehicle Fueling and Maintenance Requirements

Part 2.3.1 implements the 40 CFR 450.21 (d)(3) requirement to “minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures” and the 40 CFR 450.21 (e)(3) requirement prohibiting the discharge of “fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.” Examples of effective measures to eliminate the discharge of spilled or leaked chemicals include, but are not limited to, locating activities away from receiving waters, storm drain inlets, or other stormwater conveyances so that stormwater coming into contact with these activities cannot reach receiving waters; providing secondary containment (e.g., spill berms, decks, spill containment pallets) and cover where appropriate; and having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

Part 2.3.2: Equipment and Vehicle Washing Requirements

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

³ See *Stormwater Best Management Practice – Geotextiles, Matting and Netting*, U.S. EPA, December 2021.

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

Part 2.3.3: Storage, Handling, and Disposal Requirements

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

EPA incorporates by reference the discussion from the 2012 and 2017 CGP fact sheets concerning these requirements. See section VII.3.3 “Pollution Prevention Standards (Part 2.3.3)” on pages 83 through 87 of the 2012 CGP Fact Sheet (available here: <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>) and the fact sheet discussion for the same section on pages 48 through 49 of the 2017 Fact Sheet (available here: <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>).

Related to this section of the CGP, EPA notes that compliance with the requirements of this permit does not relieve compliance requirements with respect to Federal, State, or local laws and regulations governing the storage, handling, and disposal of solid, hazardous, or toxic wastes and materials.

Part 2.3.3c establishes control requirements that are appropriate for smaller-sized chemical containers by requiring that the operator use water-tight containers that are kept closed, sealed, and secured when not being actively used, 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.

By comparison, where larger chemical containers will be present at the site, the permit 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. In addition to the requirement for smaller chemical containers to store them in water-tight containers and keep them closed, sealed, and secured when not in use, the permit specifically requires the following for larger volumes of chemicals on site:

- Store containers a minimum of 50 feet from receiving waters, constructed or natural site drainage features, and storm drain inlets (unless infeasible due to site constraints, in which case the permit requires containers to be stored as far away from these features as the site permits). The operator is required to document the specific reasons why complying with the 50-foot setback is not feasible, and how the containers will be stored as far away as the site permits;
- Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets, double-wall above ground storage tank); 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 immediately in the event of a leak or spill. Additional secondary containment measures are listed at 40 CFR § 112.7(c)(1).

The threshold for determining which types of controls apply is whether the storage capacity of individual chemical containers on site is above or below 55 gallons. EPA chose 55 gallons as a threshold based on the 40 CFR part 112 Oil Pollution Prevention regulations, which uses this same volume for measuring the size of oil containers that require protection. In the Oil Pollution Prevention regulatory context, 55 gallons is used to define the oil container size for determining if the site has more than 1,320 gallons of oil, in which case the regulatory requirements apply. Using the 55-gallon threshold in the context of the CGP enables EPA to establish an objective means of determining whether the amount of oil or other chemical at a construction site is relatively small or large at a construction site, and provides an approach that is consistent with existing regulatory requirements that already apply to such containers.

EPA notes that these requirements do not replace the SPCC requirements if the construction site exceeds the thresholds established by the 40 CFR part 112 regulations. If the site is already implementing controls that meet or exceed the Part 2.3.3c requirements, the operator can continue to operate under the SPCC or other spill prevention plan and be considered in compliance provided that the SWPPP specifically references the relevant parts of the plan as required by Part 7.2.6b.viii.

Part 2.3.3e requires operators to “[p]rovide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes.” There are also additional requirements that apply depending on whether the waste container has a lid. EPA proposes to modify Part 2.3.3e to make it clear that lids are not required to comply with this requirement. For background, over the course of the 2022 CGP thus far, EPA has learned from its discussions with permittees that some operators are misinterpreting the CGP as requiring dumpsters to either be covered by a tarp or to have a permanent cover. As explained to EPA, these practices can be impractical or excessively expensive in some circumstances, and operators asked that the CGP provide greater flexibility to use alternative controls that achieve the same result. EPA had intentionally written Part 2.3.3e of the 2022 CGP to provide this same flexibility by referring to alternatives to lids that could be used to comply (i.e., allowing permittees to use “a similarly effective means designed to minimize the discharge of pollutants”). Given the ways in which this language is being interpreted in practice, however, EPA believes it important to better explain the Agency’s intentions to provide flexibility in this area. For this reason, EPA proposes to modify the description of the available compliance options in the requirement to clarify that any of these will comply, including by providing covers for waste containers or by using either leak-proof containers or other measures that minimize the discharge of pollutants from the container (e.g., earthen or rock berms).

EPA also heard from permittees that they were uncertain if the overall objective of the waste container requirements is to use controls to prevent exposure of waste materials stored in waste containers to precipitation or whether the objective is to minimize discharge of stormwater from the waste containers. Permittees are interested in gaining further clarity about EPA’s objective so that they better understand what type of controls are best suited to the expected construction waste to be stored at the site. In response to this request for further clarification, EPA proposes to include additional text in Part 2.3.3e.i explaining that the ultimate objective of the requirements is to minimize construction and domestic waste that may enter receiving waters or drainage features that lead to a receiving water. This objective can then be

achieved through any variety or combination of approaches as specified in subsection (b), such as eliminating exposure of these wastes to precipitation through use of a lid or cover or minimizing the discharge of stormwater from the waste container by installing an alternative control such as a berm.

EPA proposes a further clarification to Part 2.3.3e to note that if there are toxic or hazardous substances that are a component of any demolition wastes, they should be handled consistent with the requirements for these types of substances in Part 2.3.3d. The purpose of this proposed clarification is to ensure that permittees understand that toxic or hazardous wastes may not be handled in the same way as other construction wastes. For further information specific to demolition debris, EPA refers operators to the Agency's publication, RCRA In Focus – Construction, Demolition, and Renovation (EPA-530-K-04-005, 2004). EPA also proposes a new definition in Appendix A to define what is meant by reference to "demolition."

EPA provides further examples of construction and domestic wastes in Part 2.3.3.e. The added examples include food and drink trash, disposable personnel protective equipment, and cigarette butts, all of which are items that would be expected to be present at construction sites.

Part 2.3.3e specifies that waste containers are not required for the waste remnant or unused portions of construction materials or final products that are covered by the exception in Part 2.3.3a (i.e., "Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use)") as long as:

- These wastes are stored separately from other construction or domestic wastes regulated by Part 2.3.3.e.i (i.e., wastes not covered by the exception in Part 2.3.3a). If the wastes are mixed, they must be stored in waste containers as required in Part 2.3.3e.i; and
- These wastes are stored in designated areas of the site, the wastes are described in the SWPPP, and identified in the site plan.

EPA urges operators to exercise caution in applying this exception. It should be fairly easy for operators to determine whether certain waste materials like the waste remnant or unused portions of rock (e.g., gravel, stone, riprap) and untreated lumber, board, and composite wood (e.g., plywood) qualify for the exception. Other waste materials, however, such as blast rock or rebar, may contain pollutant residues or rust that could be discharged when exposed to stormwater, thereby disqualifying them for the exception. Where there is any doubt whether the exception applies, the operator is expected to err on the side of caution and store such materials in containers as required under Part 2.3.3e.i.

Part 2.3.4: Applicator and Container Washing Requirements

Part 2.3.4 applies to the washing of applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials, and implements the requirements of 40 CFR 450.21 (e)(1) and (e)(2). Operators must direct wash water into a leak-proof container or leak-proof and lined pit designed so no overflows can occur due to inadequate sizing or precipitation. EPA clarifies what requirements apply to liquid wastes from washing of applicators and containers. In addition to the requirement prohibiting dumping of liquid wastes or allowing them to enter a receiving water, drainage feature, or storm drain inlet, the permit also clarifies that these wastes must not be disposed of through infiltration or on the ground and that applicable State, Tribal, and local requirements must be complied with.

Part 2.3.5: Fertilizer Application Requirements

The fertilizer discharge restrictions in Part 2.3.5 are included to prevent the discharge of nutrients in stormwater and to further implement the C&D rule requirement to “minimize the discharge of pollutants” at 40 CFR 450.21 (d). EPA includes specific requirements to follow regarding fertilizer application, which are meant to minimize any potential discharge of excess or improperly applied fertilizers.

Part 2.3.6: Emergency Spill Notification

Part 2.3.6 prohibits the discharge of toxic or hazardous substances from a spill or other release and requires operators to comply with Federal reporting requirements of 40 CFR part 110, part 117, and part 302 in the event that a leak, spill, or other release contains a toxic or hazardous substance in an amount equal to or in excess of a reportable quantity. This Part includes requirements related to notification of the appropriate authorities to contact in the event of specific types of leaks, spills, or other releases and documentation requirements for the operator to keep with its records.

EPA is proposing to streamline this section by removing the requirement in the 2022 CGP to develop documentation for EPA separate from the reporting to other entities that is already required by these other spill programs. As proposed, the operator would now only be required to retain copies of any reports it makes under these other authorities rather than requiring the operator to develop additional documentation for the CGP as it had previously required under the 2022 CGP. EPA anticipates this more streamlined approach will still fulfill EPA's interest in having sufficient documentation to evaluate whether the permittee had complied with its notification obligations.

EPA also notes that if a leak, spill, or other release occurs containing a hazardous substance or oil in an amount that equals or exceeds a reportable quantity, and there is any risk of a stormwater discharge, the operator is currently required to comply with the NPDES duty to mitigate in Appendix G, Part G.4, based on 40 CFR 122.2.1 (d). In the 2022 CGP, the duty to mitigate specifies that the permittee “must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.” While the duty to mitigate already applies to the types of leaks, spills, or other releases addressed in Part 2.3.6 through the Part G.4 standard condition, EPA could improve the permit by being more explicit about the applicability of the duty to mitigate in these specific situations. For this reason, EPA proposes to add clarifying language to explain the specific ways in which the duty to mitigate applies to a leak, spill, or other release covered by Part 2.3.6.

Part 2.4: Construction Dewatering Requirements

Part 2.4 implements the C&D rule requirement that prohibits “discharges from dewatering activities, including discharges from dewatering of trenches and excavations” unless managed by “appropriate controls.” The specific restrictions in Part 2.4 implement what is meant by “appropriate controls” in the C&D rule. These specific requirements, in part, also implement the C&D rule requirements to control peak flowrates and total stormwater volume (40 CFR 450.21 (a) (2)), to minimize sediment discharges (40 CFR 450.21 (a) (5)), and to direct stormwater to vegetated areas (40 CFR 450.21 (a) (6)). EPA updated the technology-based requirements for construction dewatering activities in the 2022 CGP to further clarify the meaning of “appropriate controls” under this general permit. Additional specificity was provided in terms of the types of pollutants that must be controlled in the discharge, and additional detail is provided on how erosion is to be minimized at the point of discharge.

Background to EPA's Increased Emphasis on Controlling Pollutants in Dewatering Discharges

Before discussing the individual proposed changes to Part 2.4, this section provides further contextual background on the purpose of dewatering at construction sites, what pollutants are typically found in the water being removed, and the types of controls that construction operators can use to significantly minimize pollutant discharges.

Construction Dewatering Background

Dewatering, as authorized in Part 2.4 of the permit and defined in Appendix A, is the act of draining accumulated stormwater and/or ground water from excavations, foundations, vaults, trenches, and other similar points of accumulation. Short-term construction dewatering activities are typically conducted to remove water from construction sites. The presence of water in areas of construction activities is typically the result of either ground water or surface water intrusion, or stormwater from a precipitation event accumulating in the area and possibly commingling with ground water or surface water. Removal of this water from the construction site is often necessary for construction activities to commence or continue, including for equipment operation and maintaining the integrity of the structure being constructed.

Construction dewatering activities can include:

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

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

Types of Pollutants Present in Untreated Dewatering Water

Untreated water from construction dewatering activities may contain pollutants that, if discharged without being managed by appropriate controls, would likely exceed applicable

water quality standards. Dewatering discharges may also contribute to erosion and scour, thus leading to higher amounts of sedimentation if discharged without proper controls. The principal pollutant of concern associated with construction dewatering is sediment (e.g., suspended solids and turbidity). These discharges are often exposed to soil, rock, and man-made material that can create the potential for sediment to be present in these discharges. The sediment concentrations and turbidity in construction dewatering effluent can vary greatly depending upon project-specific factors such as soil type, topography, project type, time of year, extent of construction activity, implementation of controls, and location of the activity in relation to receiving waters. See Figure 1, showing sites that are discharging dewatering water without adequate pollutant controls.

Figure 1. Photos depicting dewatering discharges from permitted construction sites.



Oil and grease may be present in dewatering discharges from pumping systems used for dewatering or from leaks and spills of fuel or hydraulic fluid from construction equipment. Other pollutants of concern associated with construction dewatering include metals, nutrients (i.e., nitrogen and phosphorus), pH, and total dissolved solids. Although these pollutants may occur naturally in ground water, they may be present at concentrations that exceed the applicable

water quality standards. Dewatered ground water from a contaminated site may contain additional pollutants.

Practices Used to Control Dewatering Pollutants Prior to Discharge

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

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

EPA incorporates by reference the discussions included in the 2022 CGP Fact Sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>, for the following sections:

- *Prevalence of Permittee Noncompliance with CGP Dewatering Requirements*
- *Dewatering Requirements in State-Issued Permits*
- *Modifications to Technology-Based Requirements for Dewatering Discharges*

Part 3: Water Quality-Based Limitations for Stormwater and Authorized Non-Stormwater Discharges

This CGP includes water quality-based limits that, together with the permit's technology-based effluent limits in Part 2, are expected to result in discharges being controlled as necessary to meet applicable water quality standards.

EPA is proposing changes to the Part 3 water quality-based requirements to comport with the Supreme Court's *San Francisco* decision. At issue in the permit challenge were two broad narrative provisions prohibiting discharges that cause or contribute to violations of applicable water quality standards. The Supreme Court's opinion refers to these narrative provisions as "end-result" requirements, describing them as "permit provisions that do not spell out what a permittee must do or refrain from doing but instead make a permittee responsible for the quality of the water in the body of water into which the permittee discharges pollutants." *San Francisco v. EPA*, *Id.* at 338. The Supreme Court found that the Clean Water Act "does not authorize EPA to include 'end-result' provisions in NPDES permits." *Id.* at 355.

Consistent with this *San Francisco* decision, EPA is removing language in Part 3 of the CGP that is analogous to the permit text rejected by the Court (i.e., "Discharges must be controlled as necessary to meet applicable water quality standards."). As will be discussed further, EPA is also proposing to replace the removed text with water quality-based limitations that are specifically tied to the discharge.

Part 3.1: Water Quality-Based Limitations Applicable to All Sites

This section includes water quality-based limitations that apply to all operators. These limitations are in the form of prohibited discharge conditions, the occurrence of which triggers corrective action under Part 5.2.2 to respond to the applicable problem.

Prior to this proposal, EPA modified the 2022 CGP to include water quality-based limitations that would be consistent with the *San Francisco* decision; these conditions, however, only apply to sites within Lands of Exclusive Federal Jurisdiction, which were made newly eligible through the CGP modification. See *Clarification of requirements for projects discharging to receiving waters within Lands of Exclusive Federal Jurisdiction (CGP Part 10)* at 71 FR 15656-15657 (April 15, 2025). These conditions currently appear as Part 10 of the 2022 CGP. As part of the proposal, EPA is moving the water quality-based limitations that were added to the modified 2022 CGP for Lands of Exclusive Federal Jurisdiction in Part 10.4 to Part 3.1. By consolidating these conditions into one section, the limitations would now apply to all permitted sites and not just those within Lands of Exclusive Jurisdiction.

These conditions (adopted as part of the CGP modification in 2025 and proposed to be incorporated into Part 3.1 for all operators) are intended to provide operators with visual indicators that, if present, could signal a potential problem with the discharge related to a site's stormwater controls. The specific conditions are consistent with and build upon the visual inspection requirements already included in the 2022 CGP in Part 4.6.2b and 4.6.3 where operators are required to inspect for visible indicators of pollutant discharge. These water quality-based conditions are also based upon and intended to reflect a subset of common physical indicators that States use in their water quality standards to assess impacts to waters, which EPA considers to be potential signs of an inadequately controlled construction stormwater discharge that are readily observable by operators. (See, for example, 314 Code of Massachusetts Regulations 4.05(3)(a)(5)-(8) and (3)(b)(5)-(8); 20.6.4.13(A)(2), (B), (C), and (D) of the New Mexico Administrative Code). These or similar common physical indicators are also found in some State-issued CGPs as observable criteria used in permit limitations protective of water quality. (See e.g., Section 2.2 of Kentucky's Pollutant Discharge Elimination Permit No. KYR100000 ("The discharges to waters of the Commonwealth shall not produce floating solids, visible foam or a visible sheen on the surface of receiving waters."); Part 1.3 of the Utah Construction General Storm Water Permit No. UTRC00000 (which by definition prohibits, among other things, "Waste, garbage, floatable debris, construction debris ... from pollutant generating activities."); and Part A.1.5.f of Pennsylvania's Construction General Permit (PAG-02) (prohibiting the discharge of "Floating solids, scum, sheen or substances that result in observed deposits in the receiving water, and foam or substances that produce an observable change in the color, taste, odor or turbidity of the receiving water.")). By relying on observable impacts using specific physical indicators that are easily detectable in the discharge, these conditions would provide more notice and certainty to all operators regarding how to control discharges in a way that is protective of water quality.

In addition to the above proposed changes consistent with the Supreme Court decision, EPA is separately proposing targeted changes to the Part 3.1 conditions from what is currently included in Part 10.4 of the 2022 CGP. These changes are intended to more accurately identify the types of discharge characteristics that may be indicative of water quality issues arising from construction stormwater pollutants and discharges from a site.

- Part 3.1 Introduction (currently Part 10.4 of the 2022 CGP) – The first change would be to clarify that the discharge conditions in Part 3.1 would be limited to pollutants associated with construction activity.

- Part 3.1.a (currently Part 10.4.a of the 2022 CGP) – EPA also proposes to modify the wording of Part 3.1.a so that instead of the current wording requiring that discharges not contain “[o]bservable deposits of floating solids, scum, sheen, or other substances or debris” it would be changed to read “[o]bservable floating, *settled, or suspended* solids, scum, sheen, or other substances or debris.” (italics added) This change would match the language used to describe what the current Part 4.6.2.b already requires the operator to look for during a site inspection where a stormwater discharge is occurring. Part 3.1.a would also be modified to remove the reference to “sheen” as a pollutant indicator since this condition is already captured by Part 3.1.b and to relocate the reference to “scum” to Part 3.1.c so that is grouped with like conditions such as foam. EPA also proposes to remove the reference in Part 3.1.a to “other substances” in order to provide greater clarity about discharge indicator conditions.
- Part 3.1.b (currently Part 10.4.b of the 2022 CGP) – The Part 3.1.b conditions would be modified by grouping “odor” (currently included in Part 10.4.c) together with film, sheen, and discoloration, all of which are potential indicators of potential chemical or other pollutant release. EPA also proposes to clarify that these conditions could result from construction discharges other than from oil and grease.
- Part 3.1.c (currently Part 10.4.c of the 2022 CGP) – In addition to the already noted change related to relocating the terms scum and odor, EPA also proposes removing the reference to “color” in this section since it would be already addressed in Part 3.1.b by including “discoloration” as a condition. Additionally, Part 3.1.c would be modified to replace the term “cloudiness” with “observable construction debris.” EPA notes that since adoption of these conditions in the CGP modification, industry stakeholders have raised questions about the meaning of terms like “cloudiness” in the context of a construction site discharge. The intent of this change is to adopt a condition that more easily observable than cloudiness.

EPA welcomes public input on these conditions. EPA notes that since adoption of these conditions in the CGP modification, industry stakeholders have raised questions about the meaning of terms like “cloudiness” in the context of a construction site discharge. EPA is specifically inviting public comment on whether there are suggested changes to this language that would better capture the types of discharge characteristics at construction sites and what would be most meaningful and easy to understand for permittees. See Request for Comment # 2 in Part 3.1 of the proposed permit. The Agency intends for any proposed modifications to these conditions incorporated into the final permit to conform to the Agency's overall objective, as described in the paragraph above, of providing observable indicators that are consistent with common State water quality approaches and that will serve as signals to the operator of potential discharge problems.

Part 3.2: Water Quality-Based Conditions for Sites Discharging to Certain Impaired and High Quality Receiving Waters

Part 3.2 establishes requirements that apply for sites that discharge to impaired waters, certain high quality waters, and receiving waters within Lands of Exclusive Federal Jurisdiction.

Requirements for Discharges to Certain Impaired and High Quality Waters

The permit defines what is meant by discharges to “impaired waters” or discharges to Tier 2, 2.5, or 3 waters in Appendix A. For assistance in determining whether the site discharges to

impaired waters, EPA has developed a tool that is available at <https://www.epa.gov/npdes/epas-stormwater-discharge-mapping-tools>. For assistance in determining whether the site discharges to a Tier 2, 2.5, or 3 water, refer to the list of such waters at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. EPA explained the rationale for the more stringent impaired waters requirements in the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>, as follows:

Frequency of Site Inspections. ... It is EPA's judgment that these modified inspection requirements will enhance the operator's ability to find and correct problems before a discharge of pollutants to the impaired water occurs.

Deadline to Complete Stabilization. ... It is EPA judgment that, in waters already degraded for pollutants associated with construction activities, further reducing the amount of time that exposed soil is left in an unstabilized state is especially important for limiting the sediment and/or nutrient load to these waters. The faster stabilization requirement for areas discharging to sediment and nutrient-impaired waters is designed to minimize the erosion and sedimentation that is associated with large, exposed areas.

EPA specifically anticipated that a stricter stabilization timeframe would be within the permitting authority's discretion in implementing the 40 CFR 450.21 (b) requirement of the C&D rule. In the preamble to the C&D rule, EPA explained that "the permitting authority may determine it necessary for operators to initiate soil stabilization measures when construction activity has permanently or temporarily ceased and will not resume for a period exceeding 7 calendar days, as opposed to 14 calendar days".

EPA explained the rationale for the more stringent requirements for Tier 2, 2.5, and 3-designated waters in the 2012 CGP fact sheet as follows:

As stated in Part 3.1 of the [2012] permit, in the absence of information demonstrating otherwise, EPA expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards (which include State antidegradation requirements). More specifically, by imposing on operators that discharge to Tier 2, Tier 2.5, or Tier 3 waters the requirement to comply with the additional requirements, on top of the permit's other limits and conditions, to stabilize exposed areas faster and to conduct more site inspections than other sites, it is EPA's judgment that authorizing these discharges will not result in a lowering of water quality. Thus, EPA has determined that compliance with the CGP generally will be sufficient to satisfy Tier 2 (or 2.5) and Tier 3 antidegradation requirements because the controls will not result in a lowering of water quality, making individualized Tier 2 or Tier 3 review unnecessary, assuming of course that the discharger is in compliance with any other applicable State or Tribal antidegradation conditions that are included in Part 9 of the permit. Furthermore, the controls in the permit are sufficiently stringent that they would generally satisfy the requirement at the heart of Tier 2 review, that the discharge is necessary to accommodate important economic or social development in the area where the discharge is located. Construction is usually important to economic and social development, and the controls already required in Part 2 of this permit have been identified by EPA in its effluent limitations guideline for the construction and development category as the level of pollutant abatement that is the best available technology economically achievable. However, in cases where

information submitted with the NOI, or available from other sources, indicates that further Tier 2 or Tier 3 review and/or conditions are necessary either for a new project or an existing project with a significantly increased discharge, EPA will conduct this review and require any appropriate additional controls.

The conclusion that compliance with the CGP will generally meet the Tier 2 and Tier 3 antidegradation requirements depends on several key aspects of the permit. First, all construction sites that will be subject to this permit must meet the stringent general effluent limits set out in Part 2. Through compliance with these limits alone, EPA expects that the discharge of pollutants will be reduced and/or eliminated so that there should not be a lowering of water quality. EPA bases this conclusion in part on the fact that the limits in this permit are based on the nationally-developed effluent limitations guidelines process that defined the BAT/BCT/BPT and NSPS level of control. EPA also is imposing on these sites the requirement to meet even more stringent controls defined in 4.1.3 [of the 2012 CGP] (more frequent inspections) and 2.2.1.3.c [of the 2012 CGP] (stricter stabilization deadlines). Furthermore, once installed and implemented, the operator is obligated to maintain these controls and to correct deficiencies where inspection determines that deficiencies exist. Where EPA determines through its oversight activities (e.g., on-site inspection) that a discharger is not meeting its limits, such a deficiency will constitute a violation of the permit and will require follow-up corrective action pursuant to Part 5.2.1.3 [of the 2012 CGP].

Second, there may very well be individual cases where EPA determines that further controls are necessary or that coverage under the CGP is no longer appropriate to protect the Tier 2, 2.5, or 3 status of the receiving water. For this reason, EPA has included the following language in Part 3.3.2 [of the 2012 CGP]: "on a case-by-case basis, EPA may notify operators of such new projects or operators of existing projects with significantly increased discharges that additional analyses, stormwater controls, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary in accordance with Part 1.4.5 [of the 2012 CGP]." It is anticipated that if EPA decides to require a Tier 2 or Tier 3 review for a particular new project or an existing project with a significantly increased discharge, EPA may either change the terms of coverage or terminate CGP coverage and require an individual permit.

Similar to the proposed correction in Part 2.2.15b.ii, EPA proposes to correct the unintentional omission in Part 3.2 of a reference to sites discharging to receiving waters within Lands of Exclusive Federal Jurisdiction. EPA's 2025 modification to the CGP made it clear that sites discharging to waters located within Lands of Exclusive Federal Jurisdiction would be subject to the increased inspection frequencies in Part 4.3 and the stabilization deadlines of Part 2.2.14b.iii (which, as proposed, would become Part 2.2.15.bii under the 2027 CGP). See Parts 10.1 and 10.2. However, EPA did not make this clear in Part 3.2 by explicitly including sites discharging to receiving waters within Lands of Exclusive Federal Jurisdiction. With the proposed removal of Part 10, it would be necessary to specifically reference sites discharging to waters within Lands of Exclusive Federal Jurisdiction in Part 3.2 of the proposed 2027 CGP to be consistent with EPA's original intent in the modified 2022 CGP.

Part 3.2 also clarifies that EPA will notify operators if any additional controls are necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in a TMDL. These provisions are intended to implement the requirements of 40 CFR 122.44(d)(1)(vii)(B), which requires that water quality-based limits in permits be "consistent with

the assumptions and requirements of any available wasteload allocation for the discharge” and of 40 CFR 122.4(i), which contains requirements regarding the issuance of permits for new sources. EPA proposes to clarify that any additional controls requested by the Agency would be focused on the pollutant(s) of concern that are causing the impairment and would be limited to those that are necessary to meet the requirements of this permit.

Discharges to PCB-Impaired Waters

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

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

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

EPA incorporates by reference the remaining discussion on this subject included in this section of the 2017 and 2022 CGP Fact Sheets.

There are a variety of controls that can be implemented to minimize the potential discharge of PCBs from demolition activities, and can also be effective in controlling the release of other hazardous substances like asbestos and lead-paint. The following examples provide guidance for operators in selecting the site-specific controls to meet this requirement in Part 3.2. These examples are not required or exhaustive. Operators have flexibility in selecting the specific controls they will implement to meet this requirement in Part 3.2 but must ensure that such controls minimize exposure of building materials to precipitation and stormwater, and ensure that such materials are properly disposed. Operators must also document the selected controls in the SWPPP.

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

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

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

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

Part 3.3: Turbidity Benchmark Monitoring for Sites Discharging Dewatering Water to Protect the Water Quality of Sensitive Waters

Part 3.3 establishes benchmark monitoring requirements that apply to dewatering discharges to sensitive waters. As part EPA's overall attempt to improve pollutant control for dewatering operations and to protect water quality, EPA includes a water quality-based requirement in the permit for sites discharging dewatering water to sensitive waters. If sites are discharging dewatering water to a sediment-impaired water or to a water designated as a Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes, the operator is required to take daily turbidity samples of the dewatering discharge, take corrective action if the weekly average of the

turbidity values exceed the benchmark threshold, and report the weekly average results on a quarterly basis to EPA.

As will be discussed in greater detail in this section, EPA views the imposition of these measures as necessary to ensure that dewatering discharges are protective of waters that are sensitive to excessive sediment discharge levels (i.e., waters that are high quality or impaired for a turbidity-related parameter). While EPA is confident that the technology-based dewatering controls in Parts 2.4, 4, and 5 will result in significant reductions in pollutant discharges, the risk exists based on the Agency's anecdotal experience with inspecting dewatering operations (see discussion under "Prevalence of Permittee Noncompliance with CGP Dewatering Requirements" in Section VI, Part 2.4 of this Fact Sheet) that where the operator's controls and/or its implementation are less than fully effective, substantial sediment loadings could result in degradation of sensitive waters and have the reasonable potential to cause or contribute to an exceedance of applicable water quality standards. See 40 CFR 122.44(d)(1)(i). EPA is unwilling to take this risk specifically with respect to sensitive waters. The permit's water quality-based dewatering turbidity benchmark monitoring requirements provide a check on the permit's technology-based dewatering requirements.

EPA's Decision to Include Benchmark Monitoring in 2022 CGP

EPA's decision to include benchmark monitoring requirements for dewatering discharges to sensitive waters came after careful consideration of a number of different factors. EPA incorporates by reference here the extensive discussion from the 2022 CGP Fact Sheet on the rationale for including benchmark monitoring requirements for dewatering discharges to sensitive waters. The Fact Sheet included a discussion on the following specific issues:

- The need for improved protections for sensitive waters;
- Why monitoring requirements are appropriate;
- Why EPA chose the benchmark monitoring approach;
- Why EPA selected turbidity as its benchmark pollutant; and
- Rationale for establishing 50 NTU as the turbidity benchmark.

Other Significant Attributes of the Turbidity Benchmark Monitoring Provisions

The Turbidity Benchmark is Not an Effluent Limit

EPA reiterates here, and in Part 3.3 of the permit, that benchmarks are not effluent limitations; rather, they are a numeric measure for assessing whether a facility's controls are effective. If the permittee exceeds the benchmark, there is no permit violation. If an exceedance occurs, the permittee needs to investigate whether any specific on-site problems are contributing to the high value and, if so, to correct them. If this was an effluent limit, any exceedance would be treated as a permit violation.

EPA emphasizes that while the turbidity benchmark is not an effluent limit, there are still enforceable components of the benchmark monitoring requirements. The operator must comply with all the sampling, reporting, and recordkeeping provisions in Part 3.3, and with the corrective action requirements in Part 5.2.2. Failure to comply with any of these provisions is considered a violation of the permit.

Requests for an Alternate Benchmark

The monitoring requirements incorporate 50 NTUs as the default benchmark that will apply to dewatering discharges to sensitive waters. EPA acknowledges that the benchmark should be reflective of the water quality standards that apply to the specific receiving water,

and to those that expressed the opinion that 50 NTUs is too low of a level to be useful. To address this, EPA includes an allowance for the operator to make the case for using an alternate turbidity benchmark that is higher than the default 50 NTU threshold. Part 3.3.2b.i provides that at any time prior to or during permit coverage the operator may request that EPA approve a benchmark for the site that is higher than 50 NTU if the operator has information demonstrating the higher number is equivalent to the receiving water's water quality standard for turbidity. To make such a request, the operator is required to submit the following to the applicable EPA Regional Office:

- The current turbidity water quality standard that applies to the receiving water and the relevant citation. EPA has established a list of applicable turbidity standards that are currently in effect in the States and Tribes, as well as the citations that can be used for the requests. See <https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit>.
- Data that can be used to establish the natural turbidity levels of the receiving water (including literature studies or available government data) if the applicable turbidity standard requires information on natural or background turbidity levels.

Operators may make the request at any time, before or during permit coverage. Once the request is submitted, EPA will make a decision and inform the operator within 30 days. EPA may decide to approve or deny the request or ask for additional information. Until such time that EPA approves the request for an alternate benchmark, the 50 NTU default benchmark still applies. If the request is approved, the default benchmark will be replaced by the alternate benchmark.

Requirements for Multiple Operators

There are a large number of project sites that will have multiple operators at the same site. Where this is the case, it is not EPA's expectation that each permitted operator be required to take samples of the dewatering discharge and comply with the other requirements of Parts 3.3 and 5.2.2. For these project sites, the permit allows for operators to coordinate with one another to carry out the monitoring requirements of Part 3.3 to avoid duplicating efforts. The permit states that regardless of how the operators divide the responsibilities for monitoring and reporting, each operator remains responsible for compliance with these requirements. A footnote further explains in an example that if one operator (Operator A) relies on another (Operator B) to meet the Part 3.3.1 turbidity monitoring requirements, the Part 3.3.4 reporting and recordkeeping requirements, and the Part 5.2.2 corrective action provisions when applicable, Operator A does not have to duplicate these same functions if Operator B is implementing them for both operators to comply with the permit. However, Operator A remains responsible for complying with these permit requirements if Operator B fails to take actions that were necessary for Operator A to comply with the permit. This is similar to the way in which EPA approaches arrangements between permitted operators relating to the development and implementation of SWPPPs, where each operator remains responsible for compliance with the permit even though parties may agree to divvy up the responsibilities for implementing different compliance-related functions. See also footnote 29 in Part 7.1 and Section VI, Part 7.1 of the Fact Sheet for additional guidance concerning requirements for multiple operators. The permit also specifies that where an operator is relying on another operator to conduct the required monitoring, the operator not conducting the monitoring must still submit the required quarterly report, but can indicate that another operator is submitting the relevant turbidity data. See Part 3.3.4a.

During the current permit term, EPA has heard from operators inquiring about whether it is necessary for all operators associated with one site to submit reports when EPA is already

receiving the turbidity data from one of the operators. EPA is requesting comment on whether the permit should be changed to provide additional flexibility for operators in these multiple operator situations. For instance, should EPA change the CGP to relieve some operators of the reporting requirement as long as they submit an initial quarterly report informing the Agency that they are relying on another permitted operator to monitor and report and identifying the specific operator? EPA also invites other suggestions for changing the requirements for multiple operator scenarios to increase flexibility. Additionally, Part 3.3.4a requires operators to submit quarterly reports during the period of permit coverage, including for quarters when there is no dewatering discharge. EPA requests feedback on whether submitting reports should still be required when there is no dewatering discharge during a monitoring quarter and if there are alternative reporting requirements that are recommended.

Turbidity Monitoring Requirements

The permit provides a number of details related to conducting turbidity monitoring from the dewatering discharge. These provisions describe the required frequency of sampling (Part 3.3.1a), the location where samples must be taken (Part 3.3.1b), the requirement for samples to be representative (Part 3.3.1c), and the required test methods that must be used (Part 3.3.1d). To assist operators in complying with these requirements, EPA has put together and posted on its webpage a guidance document, *Monitoring and Inspection Guide for Construction Dewatering* (February 2022). The guidance is available at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. The document provides guidelines on how to correctly monitor for turbidity, determine if the weekly average exceeds the benchmark, and, if so, how to proceed with corrective action, as well as how to comply with the permit's dewatering inspection requirements. For example, the guidance includes advice to operators on where to collect turbidity samples in compliance with Part 3.3.1.b depending on whether the dewatering discharge is from a pipe or hose, a drainage ditch or swale, or a sediment basin. See Section 2.C.

EPA requests comment on whether to reduce the frequency of turbidity monitoring from daily to weekly for sites that will be discharging dewatering water continuously for an extended period of time. During the current permit term, EPA received feedback from permittees questioning the utility of requiring daily monitoring for dewatering operations, especially those that have previously or will be dewatering continuously for more than a few days. These permittees emphasized that there is diminishing value over time in monitoring these longer lasting discharges given the relative uniformity of turbidity levels. Permittees made the additional point that it can be expensive to be required to send staff out to monitor the discharge on non-workdays. From what EPA understands about turbidity monitoring, it is likely that continuing daily monitoring for dewatering discharges over an extended period of time would result in relatively stable turbidity levels. However, EPA is interested in receiving input from the public on whether the Agency should change the monitoring frequency in a way that would make more sense for extended dewatering operations given the Agency's interest in ensuring that operators are able to take timely action to correct problems that may be associated with higher turbidity levels in their discharge. For instance, would it make sense from a water quality and operational standpoint to continue to require daily turbidity sampling for dewatering operations that are of a shorter duration (e.g., lasting 2 to 3 days or less), and to allow less frequent monitoring (e.g., weekly) for dewatering operations that continue over a longer period of time provided that the weekly average of initial daily samples is below the 50 NTU benchmark?

Comparing Turbidity Monitoring Results to Benchmark

The operator is required in Part 3.3.3 to determine if the 50 NTU turbidity benchmark (or an approved alternate benchmark) was exceeded by comparing the weekly average of the sampling results to the benchmark. A “weekly average” is defined as the sum of all of the turbidity samples taken during a “monitoring week” divided by the number of samples measured during that week. The permit explains that if the weekly average of the turbidity results exceeds the benchmark, the operator is required to conduct follow-up corrective action in accordance with Part 5.2.2 and document any corrective action taken in the corrective action log pursuant to Part 5.4.

For averaging purposes, a monitoring week is defined as Monday through Sunday. EPA clarifies that once a new monitoring week starts, the operator will need to calculate a new average for that week of turbidity monitoring results, and further notes that a weekly average may consist of one or more turbidity monitoring results. To help illustrate how the weekly average may be computed in different scenarios, the permit provides the following example:

“...if turbidity samples from your dewatering discharge in week 1 result in values of 30 NTU on Tuesday, 40 NTU on Wednesday, and 45 NTU on Thursday, your weekly average turbidity value would be 38.33 NTU $((30+40+45) \div 3 = 38 \text{ NTU})$. If in week 2, your turbidity samples resulted in values of 45 NTU on Monday, 30 NTU on Tuesday, 25 NTU on Wednesday, and 15 NTU on Thursday, you would calculate a new average for that week, which would yield an average turbidity value of 28.75 NTU $((45+30+25+15) \div 4 = 29 \text{ NTU})$. By comparison, if your samples on consecutive days from Friday to Monday were 60 NTU, 45 NTU, 40 NTU, and 43 NTU, respectively, and there are no other dewatering discharges for the remainder of the week, you would calculate one weekly average for the Friday to Sunday to be 48 NTU $((60+45+40) \div 3 = 48 \text{ NTU})$, and a separate weekly average for the one Monday to be 43 NTU $(43 \div 1 = 43 \text{ NTU})$.”

EPA notes in Part 3.3.3c that if the operator is collecting more than one turbidity sample from the dewatering discharge, this additional data must be included in the calculation of the weekly average by adding all the individual results for the monitoring week and dividing by the total number of samples.

Additionally, EPA specifies in Part 3.3.3d that if the operator is conducting turbidity monitoring for more than one discharge point, a weekly average turbidity value for each discharge point must be calculated and separately compared to the benchmark.

Reporting Turbidity Monitoring Results to EPA

The permit also requires operators to report all weekly average turbidity data to EPA on a quarterly basis. The weekly average results must be reported by no later than 30 days following the end of each monitoring quarter. The monitoring quarters are identified as follows: Quarter 1: January 1 thru March 31; Quarter 2: April 1 thru June 30; Quarter 3: July 1 thru September 30; and Quarter 4: October 1 thru December 31. See Table 3, which also includes the specific deadlines corresponding to each quarter. EPA notes that where there are monitoring weeks in which there is no dewatering discharge, or if there is a monitoring quarter with no dewatering discharge, this should be indicated in the quarterly report.

Part 3.3.4c requires operators to electronically submit their quarterly turbidity monitoring data via EPA's NeT. The only exception to this requirement is if, consistent with Part 1.4.2, the operator's EPA Regional Office has granted approval to use a paper turbidity monitoring form. If such approval has been granted, the operator must use the paper form included in Appendix K.

Part 3.3.4.d requires that monitoring records must be kept for a period of at least three years from the date the permit expires or from the date the operator's authorization is terminated. The records that must be kept are stipulated in Appendix G, Sections G.10.2 and G.10.3, and include the following:

- All monitoring data, including calibration and maintenance records;
- Copies of all quarterly monitoring reports;
- The date, exact place, and time of sampling, and the name of the individual who performed the sampling;
- If analyses are conducted separately, the date(s) analyses were performed, and the person who performed the analyses; and
- The analytical techniques or methods used.

Part 4: Inspection Requirements

Part 4.1: Person(s) Responsible for Conducting Site and Dewatering Inspections

Part 4.1 establishes the qualifications for people assigned the responsibility to inspect the site for compliance with the permit. This requirement clarifies that it is the operator who is responsible for ensuring that the person who conducts inspections is a "qualified person" for the purposes of conducting inspections on the site. Part 4.1 also defines what the permit requires for an individual to be considered a qualified individual by linking criteria to the minimum training for all site inspectors in Part 6.3.

Part 4.2: Frequency of Inspections

Part 4.2 requires the operator to, at a minimum, conduct a site inspection in accordance with one of two schedules, unless they are subject to the Part 4.3 site inspection frequency for discharges to sediment or nutrient-impaired waters or to Tier 2, 2.5, or 3 waters, or for dewatering discharges, or they qualify for a Part 4here.4 reduction in the inspection frequency.

Part 4.2 provides the operator with a choice between the weekly inspection and bi-weekly inspection frequency. The operator can choose to inspect the site once per week or bi-weekly as well as additional inspections required within 24 hours of the occurrence a qualifying storm event. EPA specifies that conducting an inspection "within 24 hours" means that once either of the two triggering conditions (i.e., rainfall or snowmelt) are met the operator has 24 hours from that time to conduct an inspection. For clarification, the 24 hours is counted as a continuous passage of time, and not counted by business hours (e.g., 3 business days of 8 hours each). When the 24-hour inspection time frame occurs entirely outside of normal working hours, the operator must conduct an inspection by no later than the end of the next business day.

Complying with the bi-weekly inspection frequency: EPA requires sites electing to comply with the bi-weekly inspection frequency to conduct an inspection once every 14 days and additional inspections within 24 hours of a storm event that produces 0.25 inch or more of rain within a 24-hour period, or within 24 hours of a discharge caused by snowmelt resulting from an accumulation of 3.25 inches or more within a 24-hour period. To comply with this requirement, operators should ensure that no more than 14 days pass after each inspection before the next inspection is conducted. This could be accomplished by choosing a regular day during the two-week period on which inspections will be conducted in the absence of qualifying precipitation events. Where a rain event occurs that produces 0.25 inches or more during the two-week period or a snowmelt discharge occurs following a 3.25 inch or greater snowstorm, an inspection must be performed within 24 hours of the occurrence of the event. Following the event-related inspection (or final event-related inspection in cases of multi-day events), the operator must conduct the next inspection within no more than 14 calendar days.

Multiple day storms: The permit clarifies that 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 operator is required to conduct one inspection within 24 hours of when 0.25 inches of rain or more has fallen. By contrast, 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 operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after 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). To help illustrate, the permit includes the following 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 operator would be 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 would not be required within 24 hours of the Day 3 rainfall. Where a snowmelt discharge is concerned, additional snowmelt inspections are only required if following the discharge from the first snowmelt, there is a discharge from a separate storm event that produces 3.25 inches or more of snow.

The 0.25-inch rain event threshold: EPA incorporates by reference the discussion in 2012 CGP fact sheet (Section IX.1.2) in which EPA presented data that supported the 0.25 inch threshold for inspections. EPA found that a 0.25-inch threshold would cover an estimated 47 percent of storms in New Hampshire, 10 percent of storms in Idaho, and 27 percent of storms in New Mexico. Inspection immediately after such events (or during such events in the case of multi-day storms) is important to meet the purposes of adopting a storm-based inspection schedule. See section IX.1.2 "Frequency of Inspections (Part 4.1.2)" on pages 94 through 96 of the 2012 CGP fact sheet, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

Snowmelt threshold: As noted above, the permit includes a numeric threshold for snowfall amount that is equivalent to the 0.25 inch rain event in order to clarify that that where there is a discharge from snowmelt caused by an accumulation of 3.25 inches or more of snow within a 24-hour period, an inspection would be required.

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

EPA also includes in Part 4.2.2 language specifying how operators must determine when 3.25 inches of snow has accumulated on their site. Part 4.2.3b specifies that the operator must either take an actual measurement of the snowfall at the site or rely on similar information from a local weather forecasting provider. EPA also suggests that operators use the NOAA National Weather Service's guidelines for measuring snowfall at the site. See https://www.weather.gov/jkl/snow_measurement.

Part 4.3: Increase in Inspection Frequency for Certain Sites

Part 4.3 requires modified inspection frequencies for the portion of any sites discharging to a sediment or nutrient-impaired water or to a water identified by a State, Tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes. As noted in the fact sheet section for Part 3.2, these inspection requirements will enhance the operator's ability to find and correct any problems before a discharge of pollutants occurs. EPA clarifies that the more frequent site inspections are required only for those portions of the site that are discharging to the sediment or nutrient-impaired water or to a water designated as Tier 2, 2.5, or 3 water. For example, for a highway construction project spanning many miles over multiple watersheds, the increase in inspection frequency would only be required in areas of the site that discharge to or within one mile upstream of the impaired or Tier 2, 2.5, or 3 water. EPA also notes that if the operator qualifies for any of the reduced inspection frequencies specified in Part 4.4, they may comply with those reduced frequencies despite the fact that they discharge to an impaired or Tier 2, 2.5, or 3 water. This is because the reduced frequencies in Part 4.4 apply only to situations where the reduced inspection frequency is justified by circumstances that ensure protection of all waters.

Note that, similar to the requirements for conducting bi-weekly site inspections under Part 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain within a 24-hour period, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm that produces 0.25 inches or more of rain within a 24-hour period. The operator must also conduct an inspection within 24 hours of a snowmelt discharge from a storm event that produces 3.25 inches or more of snow.

EPA requires inspections on a daily basis when construction dewatering is taking place. See Part 4.3.2. The Part 4.2 inspection frequency still applies to all other portions of the site, unless the site is subject to the increased frequency in Part 4.3.1 or eligible for the reduced frequency in Part 4.4. EPA notes that other States also require or recommend daily inspections of the dewatering discharge. For reference, see the examples provided of specific state permit examples in the 2022 CGP Fact Sheet.

Part 4.4: Reductions in Inspection Frequency

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

Part 4.4.1: For Stabilized Areas

Part 4.4.1 provides the opportunity for operators to reduce their inspection frequencies in any areas of the site that have achieved temporary or final stabilization as required in Part 2.2.14. Areas of the site that have achieved temporary or final stabilization present a significantly lower risk of producing unacceptable discharges of pollutants in stormwater to surface waters. EPA further expects that, especially for larger projects, where construction activities may take place in different phases in separate locations of the site, reducing site inspection frequency where areas have been stabilized will encourage stabilization to take place closer to the time that active disturbances have ended. It is EPA's judgment that the reduction in inspection frequency will provide a benefit in reduced administrative burden to the operator.

This provision requires inspections to be conducted twice per month for the first month, with no more than 14 calendar days between the two inspections, after stabilization has been completed before reducing the inspection frequency to once per month until permit coverage is terminated. This is intended to ensure that operators catch any potential problems with

stabilization measures early on and correct such problems before failure of stabilization measures and a prolonged discharge of pollutants occurs. The exception for linear construction sites acknowledges that long linear projects may feature portions of the site that are completed and stabilized months before the final portion of the project is stabilized. The exception provides flexibility for linear construction sites by allowing these operators to suspend further inspections on portions of their site that have met the final stabilization requirements following two inspections in the first month, no more than 14 calendar days apart, and no observed “wash-out” following one more inspection within 24 hours of a storm event that produces 0.25 inches or more of rain within a 24-hour period.

Part 4.4.2: For Arid, Semi-Arid, or Drought-Stricken Areas

Part 4.4.2 allows operators whose construction projects occur in areas considered arid or semi-arid to reduce the frequency of inspection to account for the comparatively lower amounts of rainfall. Part 4.4.2 of the permit includes exceptions to the permit's default inspection frequency for arid, semi-arid, and drought-stricken areas. The permit clarifies that the inspection frequency in these areas and during the seasonally dry period” is once per month and within 24 hours of the occurrence of a storm event that produces 0.25 inches of rain or more within a 24-hour period, or within 24 hours of a snowmelt discharge from a storm event that produces 3.25 inches or more of snow within a 24-hour period. EPA notes that it has included suggested references for construction operators to use to help determine if they are located in an arid or semi-arid area, and may therefore be eligible for the alternative stabilization timeframes that apply in those areas. These references are included in Appendix A of the permit in the definitions of “arid area” and “semi-arid area.”

The permit also clarifies what EPA means when it refers to the “seasonally dry period” for arid, semi-arid, and drought-stricken areas. The phrase “seasonally dry period” is used in the CGP to restrict when operators can make use of the reduced inspection frequency in Part 4.4.2. The lack of a definition for seasonally dry period in either the 2017 CGP or the 2012 CGP before it has led to a number of questions from operators as to when this period begins and ends in different parts of the country. To establish a consistent approach for the 2022 CGP, and to assist operators by making the permit terms clearer, EPA includes a definition of the phrase “seasonally dry period” based on the Agency's research into available climate information. EPA also provides operators with resources and guidance to assist them in determining whether they will be engaged in active construction during the seasonally dry period in an arid, semi-arid, or drought-stricken areas. The following provides a more detailed discussion of the new definition.

Supporting Rationale for the 0.5-inch Threshold

EPA defines “seasonally dry period” in Appendix A of the permit as a month in which the long-term average total precipitation is less than or equal to 0.5 inches. The purpose of defining seasonally dry periods is to identify times and locations where: (1) the risk of a discharge-producing storm event is below average, and (2) the ability to utilize vegetative stabilization measures on a site may be reduced due to lack of precipitation to sustain plant life. EPA establishes the threshold for the seasonally dry period as 0.5 inches of total precipitation per month, as measured by long-term climate data, because: (1) it is consistent with a below average monthly rainfall total for arid and semi-arid areas, and (2) it reflects a manageable risk of occurrence of storm events capable of producing stormwater discharges during the dry period.

Appendix A defines “arid areas” as those with an annual rainfall of 0 to 10 inches (or an average of 0 to 0.83 inches/month), and “semi-arid areas” as those with annual rainfall of 10 to

20 inches (or an average of 0.83 – 1.67 inches/month). A long-term average 0.5-inch threshold is below the monthly average for arid areas and reflects a month wherein rainfall totals are below average (i.e., drier than average).

Throughout the permit, EPA utilizes a 0.25-inch storm event as an indicator that a rainfall event of sufficient magnitude to generate a discharge may have occurred. A threshold of 0.5 inches is consistent with a risk of anywhere from one to two rainfall-discharge producing events occurring during a seasonally dry month, which EPA finds to be an acceptable and limited risk as applied to the permit condition (Part 4.4.2) triggered by the seasonally dry period.

Locations and times meeting the seasonally dry period definition were identified using 30-year (1981-2010) climate normal maps derived from the Parameter-elevation Regressions on Independent Slopes Model (PRISM). For each month in the climate normal dataset, locations meeting the seasonally dry period definition were identified.

Guidance to Permittees on How to Use the Seasonally Dry Period Definition at Individual Sites– For a project to qualify for the modified inspection frequencies (see Part 4.4.2), the project site must be located in an area that meets specific climate definitions. These definitions include: arid conditions, semi-arid conditions, drought-stricken area, and the seasonally dry period. The steps for determining if a project site qualifies for the permit flexibilities listed above are:

1. Determine if a site is in an arid or semi-arid location using any of the following:
 - a. The NOAA National Mapping webpage (<https://www.ncdc.noaa.gov/cag/national/mapping>),
 - b. The PRISM Climate Group's Time Series Values for individual locations (<https://prism.oregonstate.edu/explorer/>), or
 - c. EPA's US EPA EnviroAtlas (<https://www.epa.gov/enviroatlas>).

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

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

2. Determine if a site is in a drought-stricken area using the NOAA U.S. Seasonal Drought Outlook (https://www.cpc.ncep.noaa.gov/products/expert_assessment/sdo_summary.php), and identifying if the project site is located in an area which is marked: (1) Drought persists, (2) Drought remains but improves, (3) Drought removal likely, or (4) Drought development likely. If the site is in a drought-stricken area, proceed to Step 3 to determine the seasonally dry period for the project location.
3. Determine if it is the seasonally dry period for the site for the purposes of this permit using the EPA-developed Seasonally Dry Period Locator Tool. Note: the Seasonally Dry Period Locator Tool can be found at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. The Seasonally Dry Period Locator Tool allows permittees to determine if their construction project site is in an arid or semi-arid area, and if any months out of the year are considered seasonally dry. Classifications are based on long-

term (1981-2010) climate data obtained from the PRISM Climate Group. Maps of arid and semi-arid areas, as well as seasonally dry areas by month, can be found on EPA's Construction General Permit website at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. If the project is operating during those months that are considered seasonally dry, the project qualifies for modified inspection frequencies (see Part 4.4.2).

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

Note that, similar to the requirements for conducting bi-weekly site inspections under Part 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain within a 24-hour period, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm that produces 0.25 inches or more of rain. See Part 4.2.2 for an example of how inspections should be conducted for multiple day storm events.

Part 4.4.3: For Frozen Conditions

Part 4.4.3 enables operators that experience frozen conditions on their site to reduce their inspection frequency to account for the fact that a discharge will not be likely during this period of time. This permit also allows operators to reduce inspection frequencies to once per month if the ground is frozen and they will still be conducting earth-disturbing activities. For both scenarios under which a reduction is possible, this permit includes the requirement that the disturbed areas be stabilized either vegetatively or non-vegetatively. This requirement also provides further assurance that in the case of an unexpected thaw or rain on snow event, the discharge of pollutants from all areas has been minimized.

Part 4.5: Areas That Must Be Inspected

Part 4.5 describes the areas on the site that must be inspected. Among the areas of the site that must be inspected, EPA includes in Part 4.5.5 the areas where construction dewatering is taking place, including controls to treat the dewatering discharge and any channelized flow of water to and from those controls. This specification highlights the importance of inspecting these areas given the added focus on dewatering discharges in this permit, and to ensure that controls are in place and operating properly to prevent erosion and discharges of sediment. See related dewatering requirements in Parts 2.4, 4.6.3, 4.7.1, and 5.1.5.

Part 4.6: Requirements for Inspections

The requirements in Part 4.6.1 provides a list of what to check for during a site inspection. EPA proposes to consolidate the inspection items currently listed in Parts 4.6.1d and e into a single provision (Part 4.6.1d). The reason for this proposed change is that the current Part 4.6.1d already requires the operator to inspect for signs of sediment deposition, which is the focus of current Part 4.6.1e. The goal of consolidating these requirements into one provision would be to make this inspection requirement easier to understand. EPA would also clarify that the requirement in proposed Part 4.6.1d is focused on checking for signs of erosion and sedimentation "in the immediate vicinity" of the discharge. This change more closely reflects the language of 40 CFR 450.21(a)(2), which similarly focuses on the immediate vicinity of the discharge.

EPA clarifies in Part 4.6.2b what the requirements are for conducting inspections while a stormwater discharge is occurring that are similar to the Part 4.6.1e requirements. Similar to the Part 4.6.1e requirement to check for signs of sedimentation that are visible from the site in

receiving waters, drainage features, or on other impervious surfaces, EPA also requires the operator to look for other pollutant indicators that are visible from the site and attributable to the discharge in receiving waters or in other constructed or natural site drainage features. These indicators would include the proposed water quality-based limitations applicable to all sites in Part 3.1, the occurrence of which would require the operator to take corrective action under Part 5. EPA also proposes to clarify the Part 4.6.2c requirement check for certain pollutant characteristics visible from the site by noting that if these conditions are visible in the receiving water or drainage features but not observed in the discharge no corrective action under Part 5 is required. This clarification ensures that this requirement is consistent with the *San Francisco* decision related to “end-result” permit requirements.

EPA includes specific inspection requirements for dewatering operations in Part 4.6.3. EPA clarifies that the dewatering inspection report must be completed within 24 hours of the inspection, and include the inspection date (Part 4.6.3a) and names and titles of personnel making the inspection (Part 4.6.3b), similar to the information required for site inspections in Part 4.7.1. The inspection report is also subject to the same requirements for signing the reports, keeping them available on site, and retaining copies as other site inspection reports. See Parts 4.7.2, 4.7.3, and 4.7.4.

The purpose of requiring that the times of the dewatering discharge and the approximate discharge rate be reported is to keep documentation that will enable EPA, if necessary, and the operator to better understand how often the discharge takes place and the total rate and volume of the discharge. Collecting this information could also assist the operator in adjusting controls where necessary to improve their effectiveness in preventing turbid discharges. Refer to the 2022 Fact Sheet for similar requirements in State NPDES permits addressing dewatering inspections.

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

The Part 4.6.3e requirement is intended to provide the operator with a straightforward way of looking for any pollution problems that can be corrected expeditiously. If a sediment plume in the discharge is visible to the observer, then it is likely that turbidity levels are excessive. Where such obvious signs of pollution are visible in the discharge during an inspection, the permit then requires that the operator initiate immediate steps to correct the problem pursuant to Parts 5.2 or 5.3. EPA proposes targeted edits necessary to ensure that the requirement to record the visual quality of the dewatering discharge is focused on whether the listed characteristics (e.g., a sediment plume, visible sheen) are present in the discharge. These changes would ensure that the requirement is consistent with the *San Francisco* decision related to “end-result” requirements.

The Part 4.6.3f requirement to take photographs of the dewatering practices in operation provides another visual way to document the discharge and how effectively the controls are working. The photographs can be taken in any form as long as they fairly represent the conditions of the dewatering operation and discharge on the day of the inspection. If the operator chooses to use digital photos, these should be kept with the inspection reports in such a way that they can be viewed by EPA, if necessary, on the date of the inspection. The 2022 CGP Fact Sheet noted a similar requirement in Nevada's DeMinimus General Permit.

EPA also clarifies in Part 4.6.4b that as part of the inspection, the operator must modify the SWPPP site map if the site's stormwater controls are no longer accurately reflected on the current site map. This clarification serves as a reminder in the permit that if changes are observed during an inspection from what was depicted on the site map, this would be the appropriate time to update the map.

Part 4.7: Inspection Report

Part 4.7.1: Requirement to Complete Inspection Report

Part 4.7.1 provides a consistent means of documenting the results of each inspection. This Part requires, similar to the concept of a logbook, that an inspection report be completed for each inspection. Requiring an inspection report to be kept will improve the organization of the inspection-related records and make it easier for operators to keep track of their findings from inspection to inspection.

Part 4.7.2: Signature Requirements

Part 4.7.2 requires that inspection reports, whether in paper or electronic format, provide accountable documentation of compliance with the inspection requirements in this permit. Appendix G provides signature requirements for both paper and electronic reports.

Part 4.7.3: Recordkeeping Requirements

Part 4.7.3 requires inspection reports be kept at the site and available to EPA inspectors. EPA includes a clarifying note in Part 4.7.3 to specify that inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the electronic reports can be accessed and read in the same way as paper, the permit requires that the records be: (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. EPA provides further guidance to operators on specific attributes of an electronic system that need to be present to adequately meet the requirements stated above as follows:

Readability/Legal Dependability

EPA expects that an electronic recordkeeping system used in compliance with Part 4.7 (inspection reports); Part 5.4 (corrective action log); and Part 7.3 (SWPPPs) will generally ensure that records created and/or maintained are readable and legally dependable with no less evidentiary value than their paper equivalent. The following are attributes of an electronic recordkeeping system that will ensure readability and legal dependability:

- a. From any other point of access to the electronic recordkeeping system, electronic records, including signatures, certifications, and alterations, can be: (i) displayed to EPA, including its authorized representatives, in a format that can be

read in a manner similar to a paper record and that associates data with field names or other labels that give the data contained in the record meaning and context (not solely in a computer code or data string), (ii) easily copied for EPA, including its authorized representatives, to review and access at EPA staff computers using non-proprietary software, and (iii) can easily be printed to paper form;

- b. Associated metadata in their native format is preserved and available upon request;
- c. Electronic records cannot be modified without detection and are preserved in a manner that cannot be altered once created. For example, any changes to an electronic record are automatically and indelibly recorded in a logically associated (i.e., cryptographically bound) audit trail that records each change made without obscuring the data to which the modification is made or its antecedents. If audit trail technology is not feasible, iterative copies of electronic documents may be kept. Having a system to detect document modifications is important for final versions of documents kept for compliance purposes and does not have to include "draft" documents that are still undergoing changes;
- d. The electronic recordkeeping system identifies any person who creates, certifies, or modifies an electronic record;
- e. Originals of any electronic record are immediately and automatically transferred to and held at a single location by a custodian of records who is not an author, certifier, or modifier of the electronic records. The original electronic record is secured in a fashion that protects it from tampering or destruction;
- f. The electronic recordkeeping system identifies: (i) the name, address, telephone number and email address for the custodian of records described in "d" above; and (ii) the address and owner of the location where the original electronic record is located. The electronic records and their associated metadata remain available, and the operator can demonstrate that the records have not been changed in any modification of the recordkeeping system or migration to a successor recordkeeping system;
- g. Clear instructions guide users of the electronic recordkeeping system in proper use of the system and unambiguously communicate the legal significance of using an electronic signature device; and computer systems (including hardware and software), controls, and attendant documentation that are part of the electronic recordkeeping system are readily available for, and subject to, agency inspection.

Accessibility

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

- a. Paper or electronic copies of requested records required to be kept pursuant to Part 4.7 (inspection reports); Part 5.4 (corrective action log); and Part 7.3 (SWPPPs); and
- b. Electronic access, using hardware and software available at the site, to required permit records via electronic storage at the site, or via direct access to an electronic system of records stored elsewhere, including legacy systems that

have been migrated to a current system, provided that the location of the original record is within the United States.

Part 4.7.4: Record Retention

The requirement in Part 4.7.4 to retain all reports a minimum of three years is based on the standard permit condition requirements for recordkeeping at 40 CFR 122.41(j)(2).

Part 4.8: Inspections by EPA

The requirements in Part 4.8 are to inform the operator of its obligations with respect to providing access to EPA (or its authorized representatives) to conduct site inspections of its own for the purposes of determining compliance with this permit. This same authority is included in Appendix G, Part 9 of the 2012 CGP as a standard permit condition based on 40 CFR 122.41(i). This authority is based on section 308 of the CWA. It is EPA's judgment that it is appropriate to place this same language in the inspection part of the permit so that it is more visible to the operator.

Part 5: Corrective Actions

Part 5.1: Conditions Triggering Corrective Action

Part 5.1 explains when an operator is expected to take corrective action. *Related to the proposed changes made elsewhere in the permit to conform with the Supreme Court's San Francisco decision (e.g., Part 3), EPA proposes to remove the language in the current Part 5.1.3 corrective action trigger that references "not meeting applicable water quality standards" and replacing it with a reference to the proposed more specific water quality-based limitations applicable to all sites in Part 3.1. This proposed change is intended to trigger corrective action requirements based on specified conditions of the discharge, not based on conditions or impacts in the receiving water.* Refer to the 2022 CGP Fact Sheet for a discussion of the changes that were made to these triggering conditions between the 2017 and 2022 CGPs, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp#2022cgp>.

Part 5.2: Corrective Action Deadlines

Part 5.2 establishes deadlines for initiating and completing work to correct the conditions identified at the site in accordance with Part 5.1. Corrective action is distinguished from routine maintenance of stormwater controls and pollution prevention measures required in Parts 2.1.4 and 2.3. EPA notes that if the condition identified in this Part constitutes a permit violation, correcting it does not eliminate the original violation. However, enforcement authorities may consider the promptness and effectiveness of any corrective action taken in determining an appropriate response. Additionally, failing to take corrective action in accordance with this Part is an additional permit violation.

Parts 5.2.1a and 5.2.1b require the operator to immediately take reasonable steps to address any conditions at the site triggering corrective action to minimize pollutant discharges from the site, and provides a deadline to complete the relevant work, assuming a new or replacement control or significant repair is not necessary. EPA notes that in the context of Part 5.2.1 the term "immediately" requires operators to, on the same day that a condition requiring corrective action is found, take steps to minimize or prevent the discharge of pollutants unless a new or replacement control or significant repair is required. Examples of corrective actions that do not require significant repair or replacement include sweeping up tracked-out sediment, cleaning up spilled materials, and minor repairs such as fixing a hole in a silt fence. EPA notes that if the problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

Part 5.2.1.c establishes a specific timeframe for completing corrective actions that require a new or replacement control or significant repair. Examples of corrective actions that require significant repair or replacement include extensive removal and replacement of an existing control or controls, or repairing a sophisticated treatment control, such as a chemical treatment system. EPA proposes to clarify that if the operator finds it infeasible to complete the installation or repair within seven calendar days, the correct place to document this would be in the Part 5.4 corrective action log.

Part 5.2.1c will also ensure that the SWPPP adequately reflects the stormwater controls being implemented on the site. Where a new control is installed and made operational, or a modification is made to an existing control, the SWPPP must be updated to reflect these site changes. Note that this is true for all such modifications, including those made to implement corrective actions. Part 5.2.2 establishes the corrective action deadlines for responding to specific triggering conditions related to discharges of dewatering water.

These provisions provide the required steps for the operator to respond to if either of the triggering conditions listed in Part 5.1.5 (i.e., the weekly average turbidity values exceed the benchmark, or a sediment plume, unusual color, and/or other evidence of pollutants is observed at the point of discharge) occur. The operator is required to undertake a sequence of steps designed to limit any further pollutant discharge, including safely shutting off the dewatering discharge as soon as possible depending on the severity of the condition. EPA provides an example in this section that if the weekly average of turbidity monitoring results or a single sample is extremely high (e.g., a single turbidity sample results in 355 NTU or higher), the operator should take action to safely shut off the discharge so that the cause of the high turbidity levels can be evaluated. EPA notes that a single turbidity sample of 355 NTUs means that the weekly average turbidity value will exceed 50 NTU regardless of the turbidity values the other days during the week. The steps include investigating the dewatering controls to determine whether some type of problem may be causing the condition, and, if so, making any necessary adjustments, repairs, or replacements to the controls. When these steps have been taken, the dewatering discharge may be resumed.

Part 5.3: Corrective Action Required by EPA

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

Part 5.4: Corrective Action Log

Part 5.4 establishes requirements for proper documentation of corrective actions. Part 5.4.1 requires the operator to document the completion of the corrective action within 24 hours, whether the correction action was completed in 3 days, 7 days, or later (after the operator documents that it is infeasible to complete the repair within 7 days and sets a schedule for completing the repair in accordance with Part 5.2.1c). Part 5.4.2 establishes requirements for accountable documentation of compliance with the corrective action requirements in this permit. Appendix G provides signature requirements for reports, including the corrective action log. The requirement in 5.4.3 is intended to ensure that EPA officials have immediate access to such records during an on-site inspection.

EPA notes that the corrective action log may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the electronic records can be accessed and read in the same way as paper, the permit requires that the records be: (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 (EPA) 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. See additional guidance provided to operators in the Fact Sheet section discussing this same issue related to Part 4.7.3. The requirement in Part 5.4.4 to retain all reports a minimum of 3 years comes from the standard permit condition requirements at 40 CFR 122.41 (j) (2).

Part 6: Stormwater Team Formation / Staff Training Requirements

The staff training requirements in Part 6 are intended to ensure that each member of the stormwater team understands the requirements of the permit and his or her particular responsibilities relating to complying with those requirements. Part 6.3 ("Training Requirements for Persons Conducting Inspections") specifies that anyone carrying out inspections must either (1) complete the EPA construction inspection course developed for this permit and pass the exam, or (2) hold a current valid certification or license from a non-EPA training program that covers essentially the same principles. The requirements specify that the non-EPA training program must cover, at a minimum, the following:

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

EPA maintains a list of existing State and third-party stormwater courses that cover the minimum topics identified above (i.e., # 1 thru 3) for non-EPA training programs. See <https://www.epa.gov/npdes/construction-general-permit-inspector-training> for more details. EPA notes that any reference to non-EPA provided courses does not constitute an Agency endorsement of any individual product or vendor. EPA may update the webpage list from time to time as it learns of additional training programs that may meet the minimum requirements. If the public is aware of any training programs not listed on EPA's webpage that they believe satisfy the minimum requirements, they may contact EPA to provide information for the Agency's consideration. EPA notes that if one of the minimum training topics (e.g., installation and maintenance of pollution prevention practices) is not covered by a non-EPA training program, the operator may consider supplementing that training program with the analogous module of the EPA course (e.g., Module 4) that covers the missing minimum training topic.

EPA proposes to delete the now obsolete deadline of February 17, 2023 for complying with what was in the 2022 CGP a new training requirement. This mid-permit term deadline was included in the 2022 CGP because EPA was then still in the process of completing its inspector training program, therefore making it necessary to include different training requirements for permittees prior to the program's completion. Now that the training program has been completed and is still in operation, the deadline is no longer applicable.

Refer to the 2022 CGP Fact Sheet for a discussion of EPA's rationale for adopting changes to the inspector training requirements between the 2017 and 2022 CGPs, available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp#2022cgp>.

Part 7: Stormwater Pollution Prevention Plan (SWPPP)

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

Part 7.1: General Requirements

Part 7.1 establishes the overall requirement that operators develop SWPPPs prior to submitting their NOIs. The SWPPP must be in place prior to discharging so that the appropriate erosion and sediment controls are selected and to ensure that the eligibility and other requirements under the permit will be met. The SWPPP is intended to serve as a road map for how the construction operator will comply with the effluent limits and other conditions of this permit. EPA clarifies that the SWPPP does not establish the effluent limits, or terms and conditions, that apply to the construction site's discharges; these limits, terms, and conditions are established in the permit. EPA emphasizes that while the requirement to develop a SWPPP, to keep it updated, and to include in it all the required minimum contents consistent with Part 7.2 are enforceable permit requirements, the site-specific details of these SWPPPs do not establish separately enforceable limits, terms, or conditions of the permit. The fact that the SWPPP is an external tool and not considered to include effluent limits, terms, or conditions enables the operator to be able to modify and retool its approach during the course of the permit term in order to continually improve how it complies with the permit.

EPA proposes to clarify in Parts 7.1 and 7.2 that as part of developing a complete SWPPP, operators must comply with any applicable SWPPP-related requirements in Part 9.

The language in footnote 29 provides that where there are multiple operators associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. For instance, if both the owner and the general contractor of the construction site meet the definition of an operator and must obtain NPDES permit coverage, either party could develop a group SWPPP that applies to both parties, as long as the SWPPP addresses both parties' permit-related functions. Another example is where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPPs, and divide amongst themselves various permit-related functions provided that each SWPPP, or a group SWPPP, documents which operator will perform each permit-related function, including those related to the installation and maintenance of the shared control. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, all operators are legally responsible for compliance with the permit. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them such that both operators are in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to take actions that were necessary for Operator A to comply with the permit.

In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not cause a violation or compromise any other operators' controls and/or any shared controls. For additional guidance, see footnote 29 and Section VI, Part 3.3 of the Fact Sheet concerning requirements for multiple operators.

The permit includes a clarifying footnote that addresses a problem brought to EPA's attention by permittees involving private vendors marketing their stormwater control products as being endorsed or approved by EPA. The footnote clarification reminds the public that "[t]here are a number of commercially available products to assist operators in developing the SWPPP, as well as companies that can be hired to help develop a site-specific SWPPP," but that EPA does not endorse specific products or vendors. The footnote therefore states, "The permit does

not state which are recommended, nor does EPA endorse any specific products or vendors. Where operators choose to rely on these products or services, the choice of which ones to use to comply with the requirements of this part is up to the operator."

Part 7.2: SWPPP Contents

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

Part 7.2.1: All Site Operators

Part 7.2.1 provides information about other operators engaged in activities covered under the permit.

Part 7.2.2: Stormwater Team

The requirement in Part 7.2.2 to provide information about the Stormwater Team in the SWPPP provides assurance that specific staff members are identified as responsible for overseeing the development of the SWPPP and are responsible for ensuring compliance with the permit requirements. Identification of staff members on the stormwater team in the SWPPP provides notice and clarification to facility staff and management (e.g., those responsible for signing and certifying the plan) of the responsibilities of certain key staff for following through on compliance with the permit's conditions and limits.

The permit specifies that the SWPPP must include verification that each member of the stormwater team identified in Part 6.1 has received the required training pursuant to Parts 6.2. Similar documentation requirements appeared in Part 7.2.8 of the 2017 CGP. The permit also requires the SWPPP to include documentation that each team member responsible for conducting inspections pursuant to Part 4 has received the training required by Part 6.3. If personnel choose to take the EPA-provided training in Part 6.3a, this documentation is satisfied by providing copies of the certificate showing that they have completed the training and passed the exam. If personnel on the team elect to complete a non-EPA inspector training program pursuant to Part 6.3b, the operator must include documentation showing that these persons have successfully completed the program and that their certification or license is still current. The operator must also confirm that the non-EPA inspector training program satisfies the minimum elements for such programs in Part 6.3b.

Part 7.2.3: Nature of Construction Activities

The provision in Part 7.2.3 requiring a description of the nature of the construction activities taking place on the construction site provides general information about the construction project, which can be readily understood by an EPA inspector or other third party who may be unfamiliar with the purpose and general layout of the projects.

Identification of the size of the property, total area expected to be disturbed by construction activities, description of construction support activities, and the area expected to be disturbed provides the operator, among other things, with information about properly designing and installing stormwater controls to minimize the discharge of pollutants, as well as information about the placement and type of stabilization practices that should be implemented to minimize the discharge of pollutants in stormwater. Consistent with the proposed change in Part 1.4.4 to specify that any change of one or more acres to the estimated area to be disturbed requires a formal change to the NOI, EPA is also proposing a change to the corresponding SWPPP requirement from providing disturbed area estimates to the nearest quarter acre under the current permit to estimating the area of disturbance to the nearest acre. The proposed change from one-quarter acre to one or more acres would help align the acreage increment used for providing the initial estimate of the disturbance area with

the threshold for triggering a requirement to modify the NOI (Part 1.4.4b) and the SWPPP (Part 7.4.1a).

This Part also requires the schedule for activities such as commencement of construction, temporary or permanent cessation of construction, temporary or final stabilization, and removal of controls. Operators are encouraged to consider developing a site phasing plan as part of the schedule for activities. The purpose of requiring documentation of the sequencing of construction activities is to assist operators with planning their construction activity sequencing in conjunction with the controls they intend to use to meet the effluent limitations in this permit. Proper construction site planning limits the amount of land disturbed at one time and limits the exposure of unprotected soils through rapid stabilization, which in turn reduces the amount of sediment that gets discharged from the construction site. This requirement provides operators a better understanding of the site's characteristics throughout all phases of construction activity, which will help them to plan for the types of stormwater controls necessary to meet effluent limitations. It is EPA's judgment that documenting this schedule of activities will help operators to minimize earth disturbances to the extent necessary for the construction activity, which will also minimize pollutants discharged in stormwater. If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

The permittee is also required to list any known hazardous or toxic substances, such as PCBs and asbestos, which will be disturbed or removed during construction, in the description of each pollutant-generating activity. Operators must also document the business days and hours for the project so that EPA, or any authorized representative of EPA, can be informed of normal operating hours in the instance of an inspection in accordance with Part 4.8 of the permit.

Part 7.2.4: Site Map

Part 7.2.4 requires that the SWPPP contain a legible site map, or series of maps. The requirements in Part 7.2.4a and 7.2.4b provide a visual depiction of where construction activities are occurring in relation to the boundaries of the property. Part 7.2.4c requires the site map to identify locations of any receiving waters within the site and those that are within one mile downstream of the site's discharge points, and to specify which of these receiving waters are listed as impaired or identified as a Tier 2, 2.5, or 3 water.

Requiring a visual showing of these waters will provide operators with information necessary to comply with the requirements for impaired waters (Parts 3.1), and Tier 2, 2.5, and 3-protected waters (Part 3.2). Identifying the location of these waters on the site map will also help operators comply with the Erosion and Sediment Control requirements (Part 2.2), particularly those related to buffers (Part 2.2.1), and Pollution Prevention Standards (Part 2.3). Part 7.2.4d requires documentation on the site map of areas of threatened or endangered species critical habitat. This requirement is consistent with Part 7.2.6.4 from the 2012 CGP. The requirement in Part 7.2.4e to map pre-construction cover on the site will assist operators in understanding how stormwater moves onto, through, and from the property prior to construction, and how any changes in this cover due to construction activities may affect stormwater discharges from the site. Consistent with the proposed clarification in Part 2.2.8 regarding the requirement to preserve topsoil, unless infeasible, EPA proposes to require the site map to identify areas where topsoil would be protected or stockpiled, or where soil conditions practices would be implemented. This proposed change is intended to encourage the operator to plan where on the site soil preservation practices would be implemented.

The requirement in Part 7.2.4g to map the flow of stormwater on the site will provide valuable information to assist with planning, designing, and installing the appropriate stormwater controls necessary to meet the permit's requirements regarding erosion and sediment controls, pollution prevention, and stabilization. Specifically, it will also assist the operator with complying with the requirements in Part 2.2.2 to "Direct stormwater to vegetated areas."

The requirements in Part 7.2.4h inform the operator and, for EPA's purposes, document where stormwater discharges will occur. There are multiple uses for the information required in Part 7.2.4h, among which include: (1) learning where sewer inlet protections will need to be installed prior to commencing construction disturbances; and (2) helping to plan stormwater controls that will reduce the erosive force of the discharge. The permit notes that the requirement to show storm drain inlets in the immediate vicinity of the site only applies to those inlets that are easily identifiable from the site or from a publicly accessible area immediately adjacent to the site. The SWPPP site map must also include a notation where the storm drain inlet conveys stormwater to a sediment basin, sediment trap, or similarly effective control. This notation will help document situations where the operator is not required to install storm drain inlet protections pursuant to Part 2.2.10.a. If the operator is subject to the turbidity monitoring requirements in Part 3.3, the SWPPP site map needs to identify where sampling will take place. As required in Part 3.3.1b, any sampling locations must be located after the dewatering water has been treated by any controls and prior to discharge.

The requirement in Part 7.2.4i to identify the locations of all pollutant-generating activities on the site map will provide operators with an understanding of how the location of their various pollutant-generating activities will correspond to the areas of disturbance at the site, the potential impacts of where these activities are located on the discharge pollutants, and the ideal locations for stormwater controls to reduce or eliminate such discharges. This information is used to comply with the pollution prevention requirements in Part 2.3. Part 7.2.4j requires the site map to identify designated areas where construction wastes that are covered by the exception in Part 2.3.3e.ii because they are not pollutant-generating will be stored. Part 7.2.4j reinforces the requirement for operators to store such wastes in designated areas of the site as required by Part 2.3.3e.ii.b.

The requirement in Part 7.2.4l to show on the site map the location of stormwater controls is intended to provide a spatial correlation between pollutant sources on the site, the flow of stormwater through and from the site, and the location of receiving waters. Requiring this information on the site map enables the operator to locate stormwater controls strategically so as to comply with the permit's requirements for erosion and sediment and pollution prevention in Parts 2.2 and 2.3. The requirement to show on the site map where areas of exposed soil will be stabilized, or have already been stabilized, provides operators with a visual aid that will help them to comply with the temporary and final stabilization requirements in Part 2.2.14. The requirement to document natural buffer areas is included to help operators implement Part 2.2.1 to "Provide and maintain natural buffers." The requirement in Part 7.2.4l to show where chemicals will be applied on the site, and where they will be stored, is included to help operators implement Part 2.2.13 (treatment chemicals) and Part 2.3.3 (storage, handling and disposal of building products, materials, and waste). This requirement encourages the operator to think strategically about where the chemicals are applied and stored to minimize the risk of accidental release.

Part 7.2.5: Non-Stormwater Discharges

Part 7.2.5 requires operators to create a comprehensive list of all non-stormwater discharges expected to occur from the site. Documentation in the SWPPP of all non-stormwater

discharges from the site provides operators with information that will help them to minimize non-stormwater associated pollutant discharges, and to ensure that only authorized non-stormwater discharges occur.

Part 7.2.6: Description of Stormwater Controls

Part 7.2.6 requires operators to include in the SWPPP a description of stormwater controls that will be implemented. Although this Part requires the SWPPP to include details on stormwater controls that will be implemented, departing from the individual design details on the site is not considered a permit violation so long as the alternative details comply with the terms and conditions of the permit. The permit notes that design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP. Part 7.2.6b requires operators to also include the following additional information in the SWPPP, as applicable.

i. Natural buffers and/or equivalent sediment controls (see Part 2.2.2 and Appendix F).

Part 7.2.6b.i requires operators to document their compliance with respect to the buffer requirements in Part 2.2.2 and Appendix F of the permit. Such documentation will provide inspectors with verification that the operator has complied with the permit's buffer and/or equivalent sediment controls compliance alternatives.

ii. Perimeter controls for a "linear construction site" (see Part 2.2.4d).

Part 7.2.6b.ii requires operators to document their compliance the linear construction site exception for perimeter controls.

iii. Sediment track-out controls (See Parts 2.2.5b and 2.2.5c).

The requirement in Part 7.2.6b.iii ensures proper documentation regarding the controls that will be implemented to remove sediment prior to vehicle exit and demonstrate the operator's ability to comply with the Part 2.2.5b and 2.2.5c requirements.

iv. Preservation of topsoil (see Part 2.2.9).

EPA proposes to clarify that the stormwater controls described in the SWPPP must include a description of the practices to be implemented to preserve or restore topsoil. Under the current permit, and previous versions of the CGP, EPA intended for the SWPPP to include a full description of all Part 2 stormwater controls but did not specifically call out topsoil preservation among the controls to be described. This section would also clarify that if it is infeasible to preserve topsoil at the site, the SWPPP should include an explanation as to the reason why.

v. Inlet protection measures (see Part 2.2.11a).

Part 2.2.11a of the permit provides an exception to the requirement to install storm drain inlet protection measures if the inlet drains to a sediment basin, sediment trap, or similarly effective control. Where a site qualifies for this exception, the SWPPP is required to include a description of the control that is connected to the storm drain inlet.

vi. Sediment basins (See Part 2.2.13).

The requirement in Part 7.2.6b.v ensures documentation when it is infeasible to utilize outlet structures required in Part 2.2.13 for withdrawing water from sediment basins.

vii. Treatment chemicals (see Part 2.2.14).

The requirements in Part 7.2.6.b.vi ensure proper documentation regarding the use of chemicals at permitted sites, and a demonstration of the operator's ability to comply with the Part 2.2.14 requirements. For Part 7.2.6b.vi above, information on soils may be obtained at <http://websoilsurvey.nrcs.usda.gov/app/>. This requirement corresponds to Part 7.2.10.2 from the 2012 CGP (stabilization practices). EPA proposes a change to subsection (c) of this provision to replace the text "will not lead to a discharge that does not meet water quality standards" with language that cross-references compliance with the Part 3.1 water quality-based conditions. This change would be consistent with the other proposed changes in the CGP to comport with the *San Francisco* decision. Additionally, EPA proposes to clarify that the description in subsection (c) must include, at a minimum, the controls and procedures in the operator's completed Appendix J form (or equivalent submittal).

vii. Stabilization measures (See Part 2.2.15).

The requirements in Part 7.2.6b.vii provide greater specificity regarding the use of vegetative and/or non-vegetated controls, and the use of such controls for both temporary and final stabilization. EPA includes such specificity so that documentation in the SWPPP corresponds to the permit requirements for stabilization in Part 2.2.15 of the CGP. The requirements in Part 7.2.6b.vii provide the operator the opportunity to support its compliance with the stabilization requirements in Part 2.2.15 of the CGP in the SWPPP. Such documentation also provide inspectors with verification that the operator has complied with the permit's stabilization requirements. This requirement corresponds to Part 7.2.10.3 from the 2012 CGP (stabilization practices). EPA notes that it has included a definition in Appendix A for what the permit considers to be the "seasonally dry period" for arid, semi-arid, and drought-stricken areas. See detailed discussion in Section VI related to the changes to Part 4.4.2, as well as the seasonally dry period definition in Appendix A. EPA proposes a clarification that the operator specify in the SWPPP which deadline in Part 2.2.15a or b applies to the site's stabilization activities.

i. Spill prevention and response procedures (See Parts 1.3.5, 2.3.3c, 2.3.3d, and 2.3.6).

The requirements in Part 7.2.6b.viii provide the operator an opportunity to develop a response plan for preventing spills from occurring and, if they do occur, a plan for responding to them to minimize the potential discharge of any pollutants from the site. The documentation in the SWPPP of spill prevention and response procedures also will demonstrate to inspectors the operator's compliance with the spill prevention and response requirements of the Pollution Prevention procedures in Part 2.3 of the permit.

ix. Waste management procedures (See Part 2.3.3).

Part 7.2.6b.ix requires operators to develop procedures for waste management, and provide documentation to inspectors demonstrating compliance with the pollution prevention requirements relating to the management of construction wastes. Where a site is unable to store chemical containers further away than 50 feet from receiving waters or other drainage features as required in Part 2.3.3.c.ii(b), the operator must include in the SWPPP the specific reasons why this would be infeasible and how it has complied with the requirement to store the containers as far away as possible from these features. Additionally, if the operator is storing construction wastes that are subject to the exception in Part 2.3.3.e.ii because the materials do not have the potential to discharge pollutants if exposed to precipitation, the SWPPP must describe the types of wastes that fall under the exception.

x. Application of fertilizers (See Part 2.3.5).

The requirement in Part 7.2.6b.x ensures documentation in the SWPPP for when the operator applies fertilizers at a rate, in an amount, at a time or in another manner that is a departure from the manufacturer specifications. This may be necessary in some limited circumstances, and Part 7.2.6b.x requires the operator to document these departures from manufacturer specifications.

Part 7.2.7: Procedures for Inspection, Maintenance, Corrective Action

Part 7.2.7 requires SWPPP documentation of the procedures that will be employed to meet the permit's inspection, maintenance, and corrective action requirements. The requirements in Part 7.2.7 will allow operators the opportunity to develop and document their procedures for inspections, maintenance activities, and corrective actions, and allow operators to demonstrate their compliance with the permit requirements corresponding to this documentation.

Part 7.2.8: Procedures for Turbidity Benchmark Monitoring from Dewatering Discharges (if applicable)

Part 7.2.8 requires operators to describe the procedures they will use to comply with the turbidity monitoring requirements for dewatering discharges to sensitive waters, where applicable. EPA also includes SWPPP requirements for those operators who are required to comply with the Part 3.3 turbidity benchmark monitoring requirements. As they are required to document other implementation plans and activities that relate to permit compliance, this provision is necessary to ensure that affected operators describe the procedures they will follow to collect and evaluate samples, report results to EPA and keep records of monitoring information and take corrective action when necessary. Operators are also required to specify the type of turbidity meter they will use for turbidity monitoring, and any copies of manuals or instructions that detail how the meter is to be operated and calibrated. If the operator will be coordinating with other operators on the same project site, the SWPPP needs to identify which parties are assigned to different responsibilities related to the Part 3.3 requirements. Additionally, if the operator has received approval for an alternate benchmark threshold pursuant to Part 3.3.2b, the SWPPP must include any data or other documentation used in the request.

Part 7.2.9: Documentation of Compliance with Other Requirements

Part 7.2.9 requires operators to provide in the SWPPP documentation for compliance with the following other requirements:

a. Threatened and Endangered Species Protection.

Part 7.2.9a specifies what Endangered Species Act documentation must be kept with the SWPPP. The permit requires documentation with regard to endangered species in Part 7.2.9a to document the operator's compliance with Appendix D of the permit, and to provide anyone who inspects the SWPPP the opportunity to review such compliance.

b. Historic Properties.

Part 7.2.9b specifies what historic property documentation must be kept with the SWPPP. The permit requires documentation with regard to historic properties in Part 7.2.9b to document the operator's compliance with the screening process in Appendix E.

c. Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls.

Part 7.2.9c specifies what UIC documentation must be kept with the SWPPP. The permit requires documentation with regard to underground injection wells in Part 7.2.9c to make

operators aware of and to provide operators the opportunity to document their compliance with the Safe Drinking Water Act requirements for underground injection wells. For State UIC program contacts, refer to the following EPA website: <https://www.epa.gov/uic>.

Part 7.2.10: SWPPP Certification

Part 7.2.10 establishes the signatory and certification requirements for the SWPPP. This requirement is consistent with standard NPDES permit conditions described in 40 CFR 122.41 and is intended to ensure that the operator understands their responsibility to create and maintain a complete and accurate SWPPP. Operators must appoint an authorized representative consistent with the regulations. Therefore, if a facility feels it is more appropriate for a member of the stormwater team to sign the documentation, that option is available under the permit as long as that person has been made a duly authorized representative under 40 CFR 122.22(b), including meeting the qualifications for such representatives at 40 CFR 122.22(b)(2). The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

Part 7.2.11: Post-Authorization Additions to SWPPP

Part 7.2.11 specifies the documents that must be included in the SWPPP following authorization to discharge. Part 7.2.11 will assist facility personnel and EPA (and other agency) inspectors in determining that the construction site has been authorized for permit coverage.

Part 7.3: On-Site Availability of your SWPPP

Part 7.3 instructs the operator on the requirements for retaining the SWPPP on-site. Part 7.3 requires operators to retain copies of their SWPPP on site, and to make the document available to EPA or the Services immediately upon request. If a member of the public wishes to have access to the non-CBI portions of the operator's SWPPP, they must first contact EPA. EPA may require that a copy be sent to the Agency so that it can be provided to the requestor. The mechanism for providing EPA with a copy of the SWPPP is at the discretion of the operator (e.g., web-based, hard copy), though EPA strongly encourages that SWPPPs be provided electronically. *EPA proposes an additional clarification in Part 7.3 to specify that both CBI and restricted information (as newly defined in Appendix B) will be withheld from the public and that the operator must clearly identify portions of the SWPPP that will be withheld from the public.*

EPA clarifies in Part 7.3 to specify that the SWPPP may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the SWPPP can be accessed and read in the same way as paper, the permit requires that the SWPPP be: (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. This is consistent with EPA's intent as explained on the Agency's 2017 CGP Frequently Questions webpage, which has been updated at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>. See additional guidance provided to operators in the Fact Sheet section discussing this same issue related to Part 4.7.3.

Part 7.4: Required SWPPP Modifications

Part 7.4.1: List of Conditions Requiring SWPPP Modification

Part 7.4.1 sets out the conditions requiring the SWPPP to be modified. The requirement in Part 7.4.1 to maintain a modified SWPPP under any of the conditions listed above provides assurance that the SWPPP will be updated to accurately reflect the conditions on the construction site. It is important that the SWPPP be accurate in terms of changes to construction plans, stormwater controls, changes in operational control, and other important changes on the

site, so that the facility personnel have access to a SWPPP that is current, and so that inspectors are provided with accurate site information for compliance purposes. EPA proposes to clarify in Part 7.4.1a that a change of one or more acres to the estimated area of disturbance provided pursuant to Part 7.2.3c would be sufficient to trigger the requirement to modify the SWPPP. This clarification would be consistent with the proposed revision to Part 1.4.4b to adopt the threshold of a one or more acre change in the estimated area of disturbance as a trigger for requiring the operator to modify its NOI. The requirement that any SWPPP revisions be completed within 7 days will ensure that any necessary revisions made to the SWPPP are incorporated in a timely manner so that the SWPPP is kept up to date.

Part 7.4.2: SWPPP Modification Records

Part 7.4.2 requires the operator to maintain a record of all SWPPP modifications. The requirement to maintain a record of all SWPPP modifications is to ensure that a record of all the changes to the SWPPP is kept. Keeping a record of such changes will help facility personnel stay current with the changes that have been made to the SWPPP, and will allow inspectors to determine if appropriate modifications were made to the SWPPP.

Part 7.4.3: Certification Requirements

Part 7.4.3 establishes the certification requirement for SWPPP modifications. The requirement that the SWPPP and all modifications be authorized by a person identified in Appendix G, Part G.11.2 is consistent with standard NPDES permit conditions described in 40 CFR 122.22 and is intended to ensure that the operator certifies any SWPPP modifications. As described in the fact sheet for Part 7.2.10, operators may appoint an authorized representative consistent with the regulations. Therefore, if an operator thinks it is more appropriate for a member of the stormwater team to sign the documentation, that option is available under the permit as long as that person has been made a duly authorized representative under 40 CFR 122.22(b), including meeting the qualifications for such representatives at 40 CFR 122.22(b)(2). The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

Part 7.4.4: Required Notice to Other Operators

Part 7.4.4 specifies the notice requirement for other operators when the SWPPP is modified. The requirement in Part 7.4.4 ensures that any other operators covered under the permit are kept up to date on the SWPPP so that they can act consistently with the modifications to the SWPPP and ultimately comply with the permit.

Part 8: How to Terminate Coverage

Part 8 details the requirements that must be met before an operator of a construction project may be authorized to terminate coverage under the permit. Part 8 reminds the operator that until permit coverage is terminated, the operator must comply with all conditions and effluent limitations in the permit. Permit coverage is not terminated until EPA has received a complete and accurate NOT, certifying that the requirements for termination in Part 8 are met.

Part 8.1: Minimum Information Required in NOT

Part 8.1 lists the minimum information that must be provided in the NOT. The requirements in Part 8.1 inform operators of the information that must be included in their NOT. The required information facilitates prompt processing of NOTs and provides assurance that operators have a valid basis for terminating. EPA notes that the NPDES ID number is not the same number that was

reported on the NOI form. The NOI contains the “NPDES permit number” as identified in the CGP (e.g., NHR1000000) while the “NPDES ID” is that number provided by EPA’s NPDES eReporting Tool (NeT) acknowledging receipt of a complete NOI. The NPDES IDs are assigned sequentially as NOIs are received by the NeT (e.g., NHR10000001, NHR10000002, NHR10000003, etc.).

Part 8.2: Conditions for Terminating Permit Coverage

Part 8.2 describes the triggering conditions for terminating permit coverage. These conditions must be satisfied before an NOT can be filed and permit coverage terminated. EPA notes that the conditions for terminating permit coverage in Part 8.2 are the same as in Part 8.2 of the 2017 CGP. EPA clarifies in Part 8.2 that until the termination of permit coverage is effective consistent with Part 8.5, the operator must continue to comply with the conditions of this permit. Part 8.2.2 requires operators to take and submit photographs showing the stabilized areas of the site as part of the NOT. EPA is including this requirement primarily as an additional level of reassurance that permittees are complying with the stabilization requirements prior to terminating coverage. Given the importance of stabilization to preventing continued erosion and sedimentation, EPA views the photo documentation requirement to be a relatively easy way for the permittee to show the Agency that it has complied with the permit’s final stabilization requirements.

EPA recently completed an evaluation of photos submitted under the 2022 CGP’s Part 8.2.1a requirement. The purpose of the evaluation was to assess compliance with the requirement and evaluate whether additional clarification or other types of changes might be necessary. In EPA’s evaluation, the Agency found that the vast majority of permittees within the sample set submitted at least one photo with their NOT (53 NOTs out of the sample group of 54). However, the evaluation found that far fewer permittees within the sample set fully complied with the stabilization photo requirements. See *2022 Construction General Permit (CGP)-Evaluation of Stabilization Photographs*, EPA 2026 (EPA publication number EPA 833-R-26-001), available in the docket for the proposed permit at regulations.gov for Docket ID No. EPA-HQ-OW-2025-0760. Based on the report findings, EPA is proposing to make the following targeted changes to the stabilization photograph requirements in what would become Part 8.2.2:

- Remove the requirement to provide before stabilization photos – Based on EPA’s review of the photos submitted under the 2022 CGP, the Agency no longer finds it necessary for the operator to provide photographs of what the site looked like prior to meeting the stabilization requirements. EPA observed in its study of the submitted photos that the operators had widely different interpretations of what the permit meant by requiring pictures of the site pre-stabilization. The inconsistencies in what was pictured in the photos operators submitted may have been due to some lack of clarity in the 2022 CGP’s permit language. After implementing these requirements for one permit term, EPA has determined that what is the most important for this permit’s purposes is for the photographs to show what the site looks like after stabilization measures have been implemented. For these reasons, EPA proposes to remove the requirement to submit before stabilization photos.
- Clarify meaning of requirement to provide after-stabilization photos – EPA proposes to provide guidance in a footnote to the revised Part 8.2.2 that explains what operators are required to show in photos demonstrating compliance with the stabilization requirements. The proposed guidance would state that submitted photos must show full implementation of any vegetative and non-vegetative stabilization measures used to meet the applicable final stabilization criteria. The guidance is intended to further educate operators about the meaning of the final stabilization criteria as well as what

should be shown in the NOT photographs. The need for the guidance was made clear during the evaluation of the study photographs as some pictures showed sites that had not been fully stabilized as required when the NOT was submitted.

- Include additional NOT question on stabilization criteria that applies to the site – EPA proposes to add an NOT question for the operator to specify which final stabilization criteria in Part 2.2.15c apply to the site and are being shown in the submitted photographs. The permit already requires as part of the SWPPP (Part 7.2.b.viii) that the operator describe the stabilization practices that will be used and the deadlines that will apply. The proposed new question for the NOT would simply require the operator to use this same information to indicate which stabilization criteria in Part 2.2.15c applies to the site. The need for this proposed change became evident during EPA's study where it was difficult in several instances to evaluate whether sites had met the stabilization criteria without also knowing which requirements applied to the site.

For further discussion of the stabilization photo requirement, refer to the 2022 Fact Sheet section on Part 8.2.1.

Part 8.3: How to Submit Your NOT

Part 8.3 describes the process for submitting an NOT. This section also provides information about EPA's NPDES eReporting Tool, or "NeT." In Part 8.3, EPA requires that operators file an electronic NOT to notify EPA that it has met the conditions for terminating permit coverage under Part 8.2. EPA has made use of an electronic reporting system for the past four CGPs. Due to the expansion in internet availability, greater efficiency in administrative processing, and reductions in cost to manage the system as compared to paper NOTs, it is required that the NeT system be the primary mechanism by which operators of construction projects obtain permit coverage and submit an NOT. If the operator requests a waiver from electronic reporting as specified in Part 1.4.2 and the EPA Regional Office grants approval to use of a paper NOT in Appendix I, then operators may submit a paper NOT to the Regional Office.

Part 8.4: Deadline for Submitting NOTs

Part 8.4 requires the operator to submit an NOT within 30 calendar days after the occurrence of any of the triggering conditions in 8.2. The purpose of requiring a deadline for filing an NOT is to ensure that operators do not remain covered under the CGP for a long period of time after reaching and satisfying the conditions for permit termination.

Part 8.5: Effective Date of Termination of Coverage

Part 8.5 specifies to operators when their permit termination will become effective and therefore when they will no longer responsible for complying with the permit. If EPA determines that the NOT is incomplete or the operator has not satisfied one or more of the conditions in Part 8.2 for being able to submit a NOT, then the NOT will not be valid, and the operator must continue to comply with the conditions of the permit.

Part 9: Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories

Section 401 of the CWA (See also 40 CFR §122.44(d)(3) and §124.53(a)) provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State/Tribe in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA.

VII. Appendices

Appendix A: Definitions and Acronyms

Appendix A of the permit includes definitions of terms and a list of acronyms used throughout the permit. Appendix A provides a reference tool for terms and acronyms used throughout the permit.

EPA proposes to add definitions for "Demolition," "Frozen Ground Conditions," "Perimeter Control," and "Restricted Information;" to change the defined term "Natural Vegetation" to "Native Vegetation;" and to modify the definition of "Qualified Person" to match this term's definition in Part 4.1. EPA also proposes to add the acronym "LEFJ" for Lands of Exclusive Federal Jurisdiction to make it clear that this is what the permit means by this reference.

Appendix B: Permit Areas Eligible for Coverage and EPA Regional Addresses

Appendix B specifies in what areas of the country the permit would apply and EPA Regional Office addresses, and includes specific corresponding permit numbers.

Appendix C: Small Construction Waivers and Instructions

Appendix C provides information to construction operators on the availability of permit waivers for rainfall erosivity (App. C, Sec. A), TMDLs (App. C, Sec. B), and equivalent analysis (App. C, Sec. C).

Appendix D: Eligibility Procedures Relating to Threatened and Endangered Species Protection

Appendix D specifies the eligibility criteria related to the protection of endangered and threatened species and critical habitat. Each operator must certify that they have met one of the six eligibility criteria. Operators who cannot certify to one of the endangered species eligibility criteria are not eligible to submit an NOI to gain coverage under the CGP; instead, they must apply to EPA for an individual NPDES permit. As appropriate, EPA conducts ESA section 7 consultations when issuing individual permits. If there are concerns that CGP coverage for a particular facility may result in adverse effects to listed species or critical habitat, EPA may hold up discharge authorization until such concerns are adequately addressed. Regardless of an operator's eligibility certification under one of the six criteria, EPA may require an application for an individual permit on the basis of adverse effects to species or habitat.

Background to Threatened and Endangered Species Requirements

Consistent with Section 7(a)(2) of the Endangered Species Act (ESA), EPA is consulting with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), collectively known as the "Services," regarding the 2027 CGP and ESA eligibility criteria. See 50 CFR Part 402. Appendix D provides the eligibility language for determining which criterion operators may meet to ensure eligibility under the ESA-related provisions of the permit.

The FWS and NMFS are responsible for developing and maintaining the list of protected species and critical habitat. Once listed as endangered or threatened, a species is afforded the full range of protections available under the ESA, including prohibitions on killing, harming or otherwise taking a species. In certain instances, the FWS or NMFS may establish a critical habitat for a threatened or endangered species as a means to further protect those species. Critical habitat is an area determined to be essential for the conservation of a species and need not be in an area currently occupied by the species. Some, but not all, listed species have designated critical habitat. Exact locations of such designated critical habitat are provided in the Services regulations at 50 CFR Parts 17 and 226.

Operators have an independent ESA obligation to ensure that their activities do not result in prohibited “take” of listed species. Section 9 of the ESA prohibits any person from “taking” a listed species, e.g., harassing or harming it, with limited exceptions. See ESA Sec 9; 16 U.S.C. § 1538. This prohibition generally applies to “any person,” including private individuals, businesses, and government entities. Many of the requirements and procedures in the CGP to protect species may also assist operators in ensuring that their construction activities do not result in a prohibited take of species in violation of section 9 of the ESA. Operators who intend to undertake construction activities in areas that harbor endangered and threatened species may seek protection from potential “take” liability under ESA section 9 either by obtaining an ESA section 10 permit or by requesting coverage under an individual permit and participating in the section 7 consultation process with the appropriate FWS or NMFS office. Operators unsure of what is needed for such liability protection should confer with the appropriate Service(s). Note that operators are required to comply with other applicable Federal laws, including the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act.

Appendix E: Historic Property Screening Process

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal “undertakings” on historic properties that are listed on, or eligible for listing on, the National Register of Historic Places. The term Federal “undertaking” is defined in the NHPA regulations to include a project, activity, or program under the direct or indirect jurisdiction of a Federal agency including those requiring a Federal permit, license, or approval. See 36 CFR 800.16(y). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR 800.16(l).

EPA’s issuance of the permit is a Federal undertaking within the meaning of the NHPA. To address any issues relating to historic properties in connection with issuance of the final permit, EPA has included a screening process in Appendix E for all prospective dischargers to follow to ensure that potential impacts of their covered activities on historic properties have been appropriately considered and addressed. Although individual applications for coverage under the general permit do not constitute separate Federal undertakings, the screening process and related NOI questions provide an appropriate site-specific means of addressing historic property issues in connection with EPA’s issuance of the final permit.

Under the NHPA regulations, a determination that a Federal undertaking has no potential to cause effects on historic properties fulfills an agency’s obligations under section 106 of the NHPA. See 36 CFR 800.3(a)(1). EPA has reason to believe that the vast majority of activities that will be authorized under the CGP will have no potential to cause effects on historic properties. EPA does not anticipate effects on historic properties from the pollutants in stormwater and allowable non-stormwater discharges from construction activities that will be covered under the permit. Thus, to the extent EPA’s issuance of the general permit will authorize discharges of such constituents, confined to existing stormwater channels or natural drainage areas, the final permitting action does not have the potential to cause effects on historic properties. Additionally, where the site will not be installing stormwater controls that cause subsurface earth disturbance (see Step 1 of Appendix E for examples of these controls), EPA similarly finds that the issuance of the permit does not have the potential to cause effects on historic properties.

It is EPA’s judgment that the permit may have some potential to cause effects on historic properties where the permit authorizes or requires the construction and/or installation of stormwater controls that involve subsurface disturbance. Where the operator disturbs the land through the construction and/or installation of such controls, there is a possibility that artifacts,

records, or remains associated with historic properties could be impacted. Therefore, if the operator is installing new stormwater controls to manage its stormwater that will involve subsurface ground disturbance, the operator must consider the potential for effects to historic properties and may need to contact the applicable State Historic Preservation Officer (SHPO), Tribal Historic Preservation Office (THPO), or other Tribal representative, to determine the likelihood that these controls will impact historic properties. Refer to Appendix E, Steps 2 through 5.

Appendix F: Buffer Requirements

Appendix F includes requirements and additional guidance for operators on how to establish the 50-foot buffer or satisfy one of the two other compliance alternatives described in Part 2.2.1.a, as well as how to qualify for and comply with the exceptions in Part 2.2.1.b. Appendix F provides information to assist operators in complying with Part 2.2.1. This appendix was developed for the permit to help implement the C&D rule requirement at 40 CFR 450.21(a)(6) to “provide and maintain natural buffers around waters of the United States ... unless infeasible.” In an effort to streamline the permit, much of the language on the buffer requirements from Part 2.1.2.1 of the 2012 CGP was moved to Appendix F for the 2017 permit.

Appendix G: Standard Permit Conditions

Appendix G includes the standard NPDES permit conditions consistent with 40 CFR 122.41. No significant changes were made to the standard permit conditions. As required by the 2015 amendments to the Federal Civil Monetary Penalties Inflation Adjustment Act (“2015 Act”), EPA issued the latest Penalty Inflation Rule on July 1, 2016, to adjust penalties for inflation that has accrued since the date the original penalty amount was enacted by Congress. Beginning January 15, 2017, and annually thereafter, the 2015 Act requires Federal agencies to issue a new penalty inflation rule to reflect the amount of inflation that has occurred over the preceding year. Due to the annual changes that will be made to the statutory maximum penalties, EPA removed references to civil and administrative monetary penalties in Part I.1.2.2 and I.1.2.3 of Appendix G. Appendix G requires any person signing documents in accordance with Parts G.11.1 or G.11.2 in accordance with the permit must include the certification statement available in Part G.11.4.

Appendix H: NOI Form and Instructions

Part 1.4.2 requires operators to use EPA's NPDES eReporting Tool (NeT) to prepare and submit NOIs. However, where an operator requests and receives approval from his/her EPA Regional Office, the operator will likely be authorized use the paper NOI form included in Appendix H. EPA proposes to correct the NOI form to include a question about the type of operator that was erroneously left off the form for the 2022 CGP. This question is required to be included as part of the eReporting regulations at 40 CFR Part 127, Appendix A, Table 2 (Facility Type of Ownership). The NOI form includes a proposed change to the amount of the estimated area of disturbance from “to the nearest one-quarter acre” to “to the nearest acre.” This change is consistent with the similar change proposed to the SWPPP requirements in Part 7.2.3c. EPA also proposes to require the operator to provide either the full SWPPP, a URL where the full SWPPP can be viewed, or a copy of the SWPPP site map and the signed certification required by Part 7.2.10. For further explanation of the rationale for this requirement refer to the Fact Sheet discussion explaining the rationale for this requirement in Part 1.4.1.

Appendix I: NOT Form and Instructions

Part 8.3 requires the operator to use EPA's NPDES eReporting Tool (NeT) to prepare and submit the NOT when any of the conditions in 8.2 have been met. However, where the EPA Regional Office specifically authorizes the operator to use a paper NOT form, that operator must

complete and submit the paper form included in Appendix I. [As discussed in the fact sheet related to Part 8.2.2, EPA proposes to add a question to the NOT so that the operator can indicate which of the Part 2.2.15c final stabilization criteria applies to the site.](#)

Appendix J: Suggested Format for Request for Chemical Treatment

Part 1.1.9 requires operators to notify the applicable EPA Regional Office in advance of submitting an NOI if the operator plans to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge. The EPA Regional Office will likely authorize coverage under the permit after the operator has included appropriate controls and implementation procedures designed to ensure that its use of cationic treatment chemicals will not lead to an exceedance of water quality standards. Appendix J provides a suggested format for notifying the operator's applicable EPA Regional Office about its intended use of cationic treatment chemicals. The addition of Appendix J to the permit is to help operators in providing the required information to their Regional Office to become eligible for permit coverage under Part 1.1.9.

Appendix K: Turbidity Benchmark Monitoring Report Form

For operators affected by the Part 3 turbidity benchmark monitoring requirements, Part 3.3.4.c requires them to submit weekly average turbidity values once per quarter using EPA's NPDES eReporting Tool (NeT) consistent with Part 1.4.2, unless the operator receives approval from the EPA Regional Office to use a paper turbidity monitoring report form. The paper form is included in Appendix K of the permit.