

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Maine Construction General Permit (MCGP)

**Maine Pollutant Discharge Elimination System (MPDES)
With Basic Performance Standards Appendices**



GENERAL PERMIT -- CONSTRUCTION ACTIVITY
Maine Pollutant Discharge Elimination System

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PART I -- General Permit Coverage

A. General coverage of this permit. This general permit authorizes the direct discharge (point source discharge) of stormwater associated with construction activity to waters of the state other than groundwater, provided that the discharge meets the requirements of this general permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. This general permit also authorizes the direct discharge of stormwater from support activities. "Construction activity" is defined in Part II (page 2).

To be covered under this general permit, you must be an operator of a construction site for which discharges will be covered under this permit.

This general permit is effective on January 14, 2025. This general permit applies in those parts of the State of Maine for which the Department has received delegated authority under the federal NPDES program. See Part V (page 12) for a list of specific limitations on coverage of this general permit.

B. Authority. A permit is required for the direct or indirect discharge of pollutants to waters of the State.¹ A general permit may be issued for point discharges (direct discharges) of stormwater.² A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under 38 M.R.S. § 349, and § 309 of the Clean Water Act. Nothing in this general permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This general permit does not affect requirements under other applicable Maine statutes such as Site Location of Development Act (Site Law), Stormwater Management Law, Land Use Planning Commission (LUPC), and Natural Resources Protection Act (NRPA).

C. Continuation of expired General Permit. If this permit is not reissued, revoked or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative

¹ See 38 M.R.S. § 413.

² See 06-096 CMR 529(2)(a)(2)(i).

Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this general permit, at which time the permittee must comply with the notice of intent conditions of the new permit to maintain authorization to discharge.
2. The permittee's submittal of a Notice of Termination.
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Department not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or individual permit.

This general permit does not prevent a municipality from adopting stricter standards than contained in this general permit, or in state or federal law.

PART II -- Definitions

The following terms have the following meanings when used in this general permit. Additional definitions are found in 06-096 CMR 520 and in the waste discharge and classification laws.

A. Construction activity. "Construction activity" or "activity" means:

1. Construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre; or
2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.

Note: Based upon Maine's soils, topography, and extensive water resources, the Department has determined that the great majority of construction activities disturbing one acre or more will result in discernable concentrated flows (direct discharges) to waters of the state.

B. Common plan of development or sale. A "common plan of development or sale" means a subdivision as determined by the Land Use Planning Commission (LUPC), or a subdivision under municipal law as determined by the municipality where the subdivision is located.

C. Department. "Department" means the State of Maine Department of Environmental Protection.

D. Direct discharge. "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.³

E. Direct watershed of a waterbody or wetland. "Direct watershed of a waterbody or wetland" is the land area that drains, via overland flow, natural or man-made drainage systems, or waterbodies or wetlands, to a given waterbody or wetland without first passing through an upstream waterbody classified as GPA.

³ 38 M.R.S. § 466(5) (definition of "direct discharge") and 06-096 CMR 520 (definition of "point source").

- F. Disturbed area.** "Disturbed area" is clearing, grading and excavation, which means all the land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. "Disturbed area" does not include routine maintenance but does include redevelopment and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving an impervious gravel surface while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered *routine* maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area". "Open disturbed area" refers to the disturbed areas of a project that have not been stabilized by temporary or permanent measures.
- G. Drainageway.** "Drainageway" is a natural or man-made channel or course within which and from which surface discharge of water may occur. Drainageways include, but are not limited to rivers, streams and brooks (whether intermittent or perennial), swales, ditches, pipes, culverts, and wetlands with localized discharge of water.
- H. Elevated erosion risk subcatchment.** An "elevated erosion risk subcatchment" is a subcatchment that has a soil erosion factor (K_w) equal to or greater than 0.37 and an average slope equal to or greater than 5%.
- I. Emergency-related construction activities.** "Emergency-related construction activities" are earth-disturbing activities associated with a project initiated in response to a public emergency (e.g. natural disaster, widespread disruption of essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.
- J. Impaired waterbody.** An "impaired waterbody" means a waterbody that is not attaining water quality criteria or standards, as determined by the Department, and listed in Chapter 502.⁴
- 1. Best currently available data.** The Department may use the best currently available data to determine the status of a waterbody, rather than relying upon the list published in Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams, when the activity itself may have caused or contributed to the impairment, or when the Department reviews an application for a permit such as an individual Waste Discharge license or Site Law permit.
- K. Impervious area.** "Impervious area" means the total area of a parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater.
- L. Large construction activity.** "Large construction activity" results in a disturbed area equal to or greater than five acres. An activity that results in less than five acres but is a part of a larger common development or sale that will ultimately result in five or more acres of disturbed area is also a "large construction activity". Large construction activity does not include routine maintenance.

⁴ See 06-096 CMR 502.

M. Notice of Intent ("NOI"). "Notice of Intent" or "NOI" means a notification of intent to seek coverage under this general permit made by the applicant to the Department on a notification form provided by the Department.

N. Notice of Termination ("NOT"). "Notice of Termination" or "NOT" means a notification of intent to end coverage under this general permit on a form provided by the Department.

O. Operator. "Operator" means any party that has day-to-day operational control of the activities at a project that are necessary to ensure compliance with the permit conditions.

Subcontractors generally are not considered operators for the purposes of this permit.

P. Person. "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency, or other legal entity.⁵

Q. Resident Inspector. "Resident Inspector" means a qualified individual representing the operator on the activity site who has a valid Department certification in erosion control practices, or an equivalent certification accepted by the Department.

R. Stormwater. "Stormwater" means the part of precipitation, including runoff from rain or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in drainageways. "Stormwater" has the same meaning as "storm water".

S. Stormwater Pollution Prevention Plan ("SWPPP"). "SWPPP" is a site-specific written document that, among other things: (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater controls to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this general permit.

T. Stream. "Stream" means a river, stream or brook as defined in the Natural Resources Protection Act at 38 M.R.S. § 480-B.

U. Subcatchment. "Subcatchment" means an activity area that drains into a specific point.

V. Support activities. "Support activities" means support activities associated with a construction activity (e.g., concrete or asphalt batch plants, equipment storage yards, material storage areas, excavated material disposal areas, borrow areas) provided the following requirements are met.

1. Direct relationship. The support activity is directly related to a construction site that requires a waste discharge permit coverage for discharges of storm water associated with construction activity.

2. Type of operation. The support activity is not a commercial operation serving multiple unrelated construction projects by different persons and does not operate beyond the completion of the construction activity at the last construction project it supports.

⁵ See 38 M.R.S. § 361-A(4).

PART III -- Requirements

A person may not construct or cause to be constructed or operate or cause to be operated or, in the case of a common plan of development or sale (subdivision), sell or lease, offer for sale or lease or cause lease or cause to be sold or leased any area affected by construction activity without obtaining approval from the Department. A person who has an interest in or undertakes an activity on a parcel of land affected by this general permit may not act contrary to this general permit.

- A. Construction activity.** A construction activity, as defined in Part II (A), must meet the following requirements.
1. Submit NOI for obtaining coverage under this general permit.
 2. Submit a SWPPP meeting the standards in Appendices A-D of this general permit.
 3. Submit NOT for terminating coverage under this general permit.
- B. SWPPP.** Material submitted with an application for a Site Law or Stormwater Management Law permit may be referenced to the extent it substantively addresses the standards in Appendices A through D. If all the standards are not addressed, supplementary material must be provided with the NOI. If an applicant wishes the Department to rely in whole or part on a submission that is part of a Site Law or Stormwater Management Law application, the applicant should submit a letter with the NOI describing the previous submission and the extent to which it should be relied upon, and listing the standards addressed by any supplementary material.

All erosion and sedimentation control (ESC) and stormwater pollution prevention measures must be designed in accordance with good engineering practices, including applicable design specifications. Design specifications may be found in manufacturer specifications, and/or the Department's ESC Best Management Practices (BMPs) manual.

The Stormwater Pollution Prevention Plan must be prepared by a professional who has a valid Department certification in erosion control practices, or an equivalent certification accepted by the Department.

- C. Total maximum daily load (TMDL).** If the activity discharges to an impaired waterbody which has an EPA approved TMDL, then the discharge must be consistent with any waste load allocation (WLA) contained in the TMDL and any implementation plan.

PART IV – Procedure

- A. Obtaining Coverage.** An operator seeking coverage under the general permit must submit an NOI and other information for the Department's review and approval. Also, if the activity is located in Essential Habitat, approval from the Department of Inland Fisheries and Wildlife (IF&W) must also be submitted. The operator agrees to comply with the standards and requirements of this general permit through submitting the NOI.
1. **Submittals.** The items listed in this subsection (Part IV (A)(1)) must be submitted to obtain coverage under the general permit:

- a. NOI Form.** The operator must provide the following information in the NOI form provided by the Department. The Department may update the form and require additional information if necessary.
- i.** The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
 - ii.** The legal name, address, telephone number, and any email address of the operator.
 - iii.** Address of the activity parcel (if applicable).
 - iv.** A narrative describing in detail how to get to and access the parcel and construction activities, and a USGS or similar map with the location marked.
 - v.** A narrative describing the project and its purpose.
 - vi.** Anticipated construction begin date.
 - vii.** UTM Northing and UTM Easting (if known).
 - viii.** Total disturbed area proposed.
 - ix.** Name of the receiving water(s) or if the discharge is through a municipal separate storm sewer system, the name of the municipal operator of the storm sewer.
 - x.** Signature of applicant (operator) or authorized representative with documentation showing authorization. For signatory requirements, see 06-096 CMR 521(5).
- b. IF&W Approval.** For any construction activity occurring within an Essential Habitat or that may violate protection guidelines, written approval of the activity from the Department of Inland Fisheries and Wildlife (IF&W). The applicant must follow any conditions stated in the IF&W approval.⁶

Note: Maps showing areas of essential habitat are available from the Department of Inland Fisheries and Wildlife regional headquarters, municipal offices, the Land Use Planning Commission (or areas within 'LUPC's jurisdiction) and DEP website. If the activity is located in Essential Habitat, IF&W must be contacted to request and obtain a "certification of review and approval."

- c. Location map.** A 7.5-minute USGS topographic map or an equivalent map showing the site's location and approximate property boundaries if the size of the parcel and scale of the map allows it. A USGS topographic map can be useful for showing the general contour and topography of the project site.
- d. Photos.** Provide photographs of the project site that show the existing character and topography of the area proposed for development.
- e. SWPPP.** SWPPP must consist of the following:
- i. Site plan.** The site plan must be scaled and show, at a minimum, the locations of structures and roads, the extent of disturbed land, pre-construction site topography, post-construction site topography, on-site and adjacent surface waterbodies. Identify protected natural resources, such as wetlands, streams, significant wildlife habitats, or high-water line of ponds or coastal wetlands on the site plan. It is not necessary to have the plan professionally prepared except for the large construction activities. The plan must be legible and drawn to a scale that allows clear representation of distances and measurements on it.

⁶ A state agency may not license a project that will significantly alter habitat of any species designated as threatened or endangered, or violate protection guidelines, without a determination from IF&W. See 12 M.R.S. § 7755-A.

An applicant may substitute the following information for surveyed pre-development and post-development site topography on the location plans except for the large construction activities:

- (a) The locations of high points on the site,
- (b) The locations of any ponds or other runoff storage depressions on the site,
- (c) The locations and flow direction of any drainage ditches, brooks, or streams,
- (d) The locations of any catch basin inlets or culvert inlets, and
- (e) Arrows showing the general direction(s) of overland drainage for the site.

ii. Erosion and Sedimentation Control. The plan must address the ESC requirements described in Appendix A. At a minimum, the following ESC information must be provided in the plan:

- (a) **Location plan.** A scaled plan showing the location of all ESC measures to be used on the site. Such measures include, but are not limited to, sedimentation barriers, temporary sediment basins, ditch lining, rip rap, and culvert inlet and outlet designs. Identify retained down gradient buffers or explain in a narrative why such buffers will not be retained (see Pollution Prevention standard, Appendix A (1)). Identify the location of any temporary access roads.
- (b) **ESC notes.** ESC notes must include, but are not limited to, permanent stabilization measures, seeding and mulching rates, and a construction schedule for clearing, grubbing, major earth moving and other construction events.
- (c) **Construction and installation details.** Construction and installation details of the ESC measures proposed to be used. Include cross-sectional details for new access roads and temporary roads that will be reconstructed.

iii. Inspection and Maintenance. The plan must address the inspection and maintenance requirements described in Appendix B and contain, at a minimum, the following information:

- (a) **List of measures.** Submit a list of all erosion and sedimentation control, stormwater management measures to be inspected and maintained during the activity site is covered under the general permit.
- (b) **Inspection and maintenance tasks.** Submit a list of inspection and maintenance tasks specific to each erosion control measure or stormwater management measure. Submit the specific qualifications of the person performing each task.
- (c) **Task frequency.** Indicate the required frequency of each inspection and maintenance task.
- (d) **Responsible parties.** Submit the name, job title, employer, employer address, phone number, and current email contact information for the person responsible for ensuring that inspection and maintenance tasks are completed. Submit the names, job titles, employer addresses, phone number, and any current email contact information of the engineers or other design professionals who designed the erosion control measures and stormwater management measures for the site. Include suppliers of proprietary erosion control measures or proprietary stormwater management measures used on the site.

iv. Housekeeping. Housekeeping requirements are described in Appendix C. Submit a plan to address spill prevention, groundwater protection, fugitive sediment and dust, debris

and other materials, trench or foundation de-watering, or non-stormwater discharges, as applicable to the specific site.

- v. **Large Construction Activities.** Submit the following information in SWPPP addressing the requirements described in Appendix D:
 - (a) **Civil construction sequence.** A scaled plan sheet delineating areas to be disturbed in sequence.
 - (b) **Setback lines.** Show 50-ft setback line from the downgradient abutting parcels, and 100-ft setback line from the downgradient protected natural resources in the site plan.
 - (c) **Temporary sediment basin.** If applicable, temporary sediment basins shall be shown along with their contributing drainage areas in the location plan. The basin details shall be provided.
 - (d) **Stump dump.** If applicable, the approximate location of stump storage areas shall be shown in the location plan.
 - (e) **Elevated erosion risk (EER) subcatchments.** If applicable, any EER subcatchments shall be shown in the location plan.
 - (f) **ESC notes.** If applicable, the following shall be provided:
 - (1) Temporary sediment basin sizing calculations.
 - (2) Narrative evaluating the condition of the existing dirt/gravel roads to be used by construction traffic.
 - (3) Narrative evaluating the ESC challenges and opportunities posed by the site soils (e.g., HSG D à marginal soils, HSG A & B à can be utilized for construction runoff and sediment control).
 - (4) Erosion Risk Assessment (ERA) data and narrative.
 - (5) Additional controls that apply to EER watersheds.
- 2. **Processing of NOI.** An NOI and accompanying submittals (Part IV (A)(1)) must be reviewed and approved by the Department prior to construction activity except for emergency-related construction activities or as provided in Part IV (K).

For emergency-related construction activities, a complete NOI must be submitted within 30 calendar days after commencing earth-disturbing activities. The NOI must provide documentation to substantiate the occurrence of a public emergency.

The NOI is deemed approved 14 calendar days after the Department receives the NOI, unless the Department approves the NOI or finds the NOI deficient prior to that date. Within the 14-day period, the Department may notify the applicant in writing or through verbal communication that the project is ineligible for coverage under this general permit, or that additional information is needed, or further review is required. If the DEP does not inform the applicant that the NOI is unacceptable within this 14-day period, the NOI is deemed accepted by the Department and the applicant may proceed to carry out the activity.

The Department may consolidate the NOI materials filed for an activity that also requires review under other programs (Part VI). When application materials are consolidated, the review period for the NOI is extended to coincide with the longest processing time associated with the other applications or program.

B. Terminating Coverage. The operator shall submit a Notice of Termination (NOT) on a form provided by the Department within 30 days of the completion of permanent stabilization or within 30 days of obtaining coverage under an alternative MEPDES permit.

1. Common plan of development or sale. A person who has filed an NOI for a common plan of development or sale shall file an NOT as follows:

- a.** For areas of the site over which the developer has control, the NOT must be filed after permanent stabilization has been completed.
- b.** For areas of the site over which the developer does not have control (ex. lots sold in an undeveloped or partially undeveloped state), the NOT must be filed after (i) temporary stabilization including perimeter controls for individual lots have been completed if the developer has done prep work (stripping or grading) on the lots, (ii) the developer has informed the lot buyers of the requirements of this general permit, and (iii) the developer has provided the buyers with copies of any erosion control plan, or portion of a plan applicable to the lots, required to be certified or provided to the Department under the requirements of this general permit.

A buyer of a lot within a common plan of development or sale is required to meet the standards of this general permit, except that residential lot buyers are not required to maintain inspection logs as provided in Appendix B(3).

2. Timing. A permittee's authorization to discharge under this permit terminates at midnight on the day the NOT is signed.

3. Submission. The NOT must include the minimum information given below. For a permanently stabilized project, the Department can specify additional materials to be submitted with the NOT demonstrating compliance with the conditions of the licenses and permits issued for the project by other programs, including but not limited to, the Stormwater Management Law and Site Law.

- a.** The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
- b.** The legal name, address, telephone number, and any email address of the operator.
- c.** Photographs showing the completed project and the affected area. Exception: a person filing a NOT for a common plan of development is not required to include photographs of disturbed areas created by lot buyers or lessees.
- d.** Signature of the permittee or authorized person together with documentation demonstrating authorization. If documentation has been previously submitted and is still current, it may be referenced.

G. Submitting forms/materials. The notification forms must be electronically submitted to the DEP by email. Refer to the DEP website (<https://www.maine.gov/dep/land/permits/pbr/index.html>) for additional information on filing an electronic permit application.

H. Retention of records

1. **Documents.** The permittee shall retain copies of the SWPPP, and any forms, submissions, reports, or other materials required by this general permit for a period of at least three years from the completion of permanent stabilization. This period may be extended at the request of the Department.
2. **Accessibility.** Employees and agents of the Department may enter any property at reasonable hours in order to determine compliance.⁷ The permittee shall retain a copy of the SWPPP and this general permit at the construction site or other location accessible to the Department, local government officials, and any operator of a municipal separate stormwater sewer receiving discharges from the site, from project initiation to permanent stabilization. The permittee shall ensure that a copy of the SWPPP and this general permit are available for the use of any contractors on the site undertaking work regulated by this general permit.

- I. Changes in the activity or operator.** Coverage under this general permit will be continued provided there are no changes in the discharge as described in the NOI and associated submissions. If any changes are proposed in the activity, the person having filed the NOI must notify the Department through the submission of updated information in writing; including submitting or obtaining certification for any revisions to a SWPPP required in Part III.

The updated information must be submitted with a new NOI if the permittee proposes to expand or relocate disturbed area of one acre or more beyond what was indicated in the original NOI, or to change the waterbody to which the stormwater will be discharged. Information concerning other changes may be submitted in a letter.

If the operator of the land changes, the new operator must file an NOI to continue coverage under this general permit within 30 days. Materials submitted with an NOI by a prior operator may be referenced if they are still current. Exception: a lot buyer or subsequent transferee of a lot within a common plan of development or sale is not required to file an NOI unless they propose a construction activity as defined in Part II (A).

- J. Request to be excluded.** A person may request that an activity be excluded from coverage under this general permit and apply for an individual waste discharge permit pursuant to the Department's rules. When an individual permit is issued to a person otherwise subject to this general permit, the applicability of this general permit to that person is automatically terminated on the effective date of the individual permit.

K. Effect of prior approvals

1. **Construction activity including one acre or more of disturbed areas.** This subsection applies for the purpose of determining jurisdiction under the "one acre" threshold only.
 - a. Persons disturbing less than 5 acres. A person with on-going construction activity as of January 14, 2025, who received authorization to discharge under a prior MCGP(s) and whose activity includes less than 5 acres of disturbed area and, that have not submitted a NOT shall submit a new NOI prior to or on March 14, 2025. The new NOI may reference information in prior NOI submissions to the extent it is still current.
 - b. Persons disturbing 5 or more acres. A person with on-going construction activity as of January 14, 2025, who received authorization to discharge for the activity under a prior MCGP(s) and

⁷ See 38 M.R.S. § 347-C (in part).

have or will disturb five or more acres shall submit a new NOI prior to or on April 14, 2025. The new NOI may reference information in prior NOI submissions to the extent it is still current, and Appendix D requirements do not apply.

2. **Common plan of development or sale.** This subsection applies for the purpose of determining jurisdiction under the "common plan of development or sale" threshold only.

A common plan of development or sale (subdivision) is not required to meet the requirements of this general permit if it received approval from LUPC or the municipality where it is located before

- a. If a subdivision that received municipal or LUPC approval prior to January 14, 2025, is modified on or after the effective date of this permit so as to add three or more subdivision lots as determined by LUPC or the municipality, this general permit applies to those lots and their associated facilities as provided in Part III.
- b. If a subdivision receives approval on or after January 14, 2025, then this general permit does not apply to lots transferred before January 10, 2025.

Note: A person subdividing land must still file a NOI if they undertake construction activity on the parcel that includes one or more acres of disturbed area, as provided in Part III (A). Examples of such activity would be road or pad construction or stripping and grading. A single NOI may be filed for both the common plan of development or sale, and this disturbed area.

PART V -- Limitations on Coverage

- A. **Individual permits or other general permits.** This general permit does not authorize a stormwater discharge associated with construction activity that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. See Part VI (A) for information on related waste discharge permits.

The Department may require any person with a discharge authorized by this general permit to apply for and obtain an individual permit.⁸ When the DEP notifies an applicant that an individual permit is required, no work may begin or continue unless and until the individual permit is obtained. Any interested person may petition the Department to act under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.⁹

- B. **Compliance with this general permit.** This general permit does not authorize a stormwater discharge that is not in compliance with the requirements of this general permit. If the Department determines that the standards of this general permit have not been met, the Department shall notify the person and may:
 1. Authorize coverage under this general permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this general permit and water quality standards have been implemented as determined by the Department.
 2. Require an individual waste discharge permit; or

⁸ See 06-096 CMR 529(2)(B)(3).

⁹ 06-096 CMR 529(2)(B)(3).

3. Inform the person that the discharge is prohibited.

Compliance with this subparagraph does not preclude any enforcement activity under Maine law for an underlying violation.

- C. **Non-stormwater.** This general permit does not authorize a discharge that is mixed with a source of non-stormwater, other than those discharges in compliance with Appendix C.
- D. **Total maximum daily load (TMDL).** This general permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL for the waterbody to which the direct discharge drains.
- E. **Discharge of hazardous substances, chemicals, or oil.** This general permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.
- F. **Violation of water quality standards.** This general permit does not authorize a discharge that may cause or contribute to a violation of a water quality standard.
- G. **Related laws.** This general permit does not authorize stormwater discharges that are not in conformance with the terms and conditions of permits issued under: Site Location of Development Act, 38 M.R.S. §§ 481-490; Stormwater Management Law, 38 M.R.S. § 420-D; Natural Resources Protection Act, 38 M.R.S. §§ 480-A - 480-Z; or by the Land Use Regulation Commission §§ 481 et. seq. This general permit does not authorize stormwater discharges that are not in conformance with the Maine Erosion and Sedimentation Control Law, 38 M.R.S. § 420-C.
- H. **Post-construction discharges.** This general permit does not authorize stormwater discharges after the completion of permanent stabilization.
- I. **Metallic mineral mining or advanced exploration.** This general permit does not authorize discharges from metallic mineral mining or advanced exploration. Stormwater and erosion and sedimentation standards related to construction are specified in the Maine Metallic Mineral Mining Act and, if required, an individual waste discharge permit.
- J. **Exemptions.** Certain exemptions apply and are specified in the Maine Waste Discharge Law. An exemption in a Maine law other than the Maine Waste Discharge Law, such as the Site Law or Maine Stormwater Management Law, does not create an exemption to the Maine Waste Discharge Law or the requirements of this general permit. Each law has its own set of statutory exemptions.
- K. **Reopener.** This general permit may be modified or reopened as provided in 38 M.R.S. § 414-A (5).

Part VI -- Relationship with other programs

An activity may include "construction activity" and also be regulated under other programs.

A. Related waste discharge permits

1. **Multi-sector.** A stormwater discharge requiring approval as an industrial activity other than 06-096 CMR 521(b) (14) (x) is not authorized under this general permit.

2. **Waste discharge permit (surface water).** A waste discharge permit may be required for activities such as combined sewer overflows (CSOs), spray irrigation, process water treatment systems, metallic mine drainage, and other discharges inadequately covered by this general permit, as determined by the Department.
3. **Waste discharge permit (groundwater).** A waste discharge permit may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see 06-096 CMR 543.

A "subsurface fluid distribution system" is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A "well" is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system. "Well injection" means the subsurface discharge of fluids into or through a well.

4. **Long Creek Watershed.** A person undertaking construction activity in the watershed of Long Creek in the municipalities of South Portland, Westbrook, Portland or Scarborough, within 6 months of creating one acre or more of impervious area, must either join the Participating Landowner Agreement with the Long Creek Watershed Management District, or must file for individual permit coverage for both construction and post-construction activity, complying with the requirements of 06-096 CMR 521, Applications for Waste Discharge Licenses.

B. Quarry or an excavation for borrow, clay, topsoil, or silt. Clearing, grading or excavation activities conducted as part of the exploration and construction phase of a borrow pit or quarry operation must meet the requirements of this general permit, if they will result in the direct discharge of stormwater to waters of the state other than groundwater and will disturb one or more acres of land. These requirements do not apply to an area that is internally drained. Construction activity includes the building of site access roads and removal of overburden and waste rock to expose mineable materials. If the activity must meet the requirements of this general permit, the following exceptions apply.

1. **Stabilization deadlines.** The 14-day time limit for temporary stabilization in Appendix A (4), and the one-year time limit for permanent stabilization in Appendix A (6) do not apply.
2. **If under the Gravel Pit or Quarry Program - may need to do a SWPPP.** If the clearing, grading, or excavation activity subject to this general permit is also required to meet the Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt,¹⁰ or Performance Standards for Quarries¹¹, then the operator does not have to meet the requirements specified in Part III of this general permit, except for the SWPPP requirements given in Appendix A through C.

In some cases, an area that is not internally drained initially may become internally drained during construction. For an area that has become internally drained, it is not necessary to undertake stabilization as otherwise required under this general permit before filing the NOT.

C. Other programs such as Site Law, Stormwater, and Waste. Activities that require a permit under Site Law or Storm Water Management Law may not proceed until any required permit under those laws is obtained.

¹⁰ 38 M.R.S. §§ 490-A et. seq.

¹¹ 38 M.R.S. §§ 490-W et. seq.

The Department may combine application requirements for this general permit and other programs administered by the Department. Other programs may include facilities and projects regulated pursuant to programs such as 38 M.R.S. § 1310-N (Solid waste facility licenses), 1319-R (facility siting), 1319-X (criteria for development of waste oil facilities and biomedical facilities), 38 M.R.S. § 483-A (Site Law), 38 M.R.S. 420-D (Stormwater Management Law), and 12 M.R.S. § 685-A (LUPC). In case of a conflict between the standards in Appendix A, B, C and D and those adopted pursuant to any of these laws, the stricter standard applies, as determined by the Department. The review period for the NOI may be extended as provided in Part IV (A)(2). The Department may waive the fee required with the NOI pursuant to this general permit for certain combined applications.

- D. Silvicultural activities.** Authorization under this general permit is not required for non-point silvicultural activities as provided in 06-096 CMR 521(10).
- E. Maine Department of Transportation and Maine Turnpike Authority.** Construction activities conducted by or under the supervision of the Maine Department of Transportation (MaineDOT) or the Maine Turnpike Authority (MTA) pursuant to a Memorandum of Agreement between the Department, MaineDOT and MTA, are authorized under this general permit within the limits of coverage specified in this general permit. MaineDOT and MTA are considered qualifying state programs as provided in 40 CFR 122.44(s).

PART VII -- Standard Conditions

- A. General restrictions.** A discharge covered by a General Permit may not:
 - 1. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water.
 - 2. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
 - 3. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.
- B. Removed substances.** Pollutants removed or resulting from the treatment of wastewaters must be disposed of in a manner approved by the Department.
- C. Monitoring requirement.** The Department may require monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.
- D. Other information.** When the permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, they shall promptly submit such facts or information.
- E. Other applicable conditions.** The conditions in 06-096 CMR 523(2) also apply to discharges pursuant to this general permit¹² and are incorporated herein as if fully set forth. These conditions address areas such as: duty to comply; need to reduce or halt activity not a defense; duty to mitigate; permit actions; property rights; duty to provide information; and inspection and entry.

¹² See 06-096 CMR 529(3)(i).

- F. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- G. Duty to reapply.** If the permittee wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the permittee must apply for and obtain a new permit.
- H. Severability.** The conditions of this general permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.