



# New Maine Construction General Permit (MCGP)

January 24, 2025

**Kris Bears  
Cameron Dufour  
Kerem Gungor  
John Maclaine**

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*Protecting Maine's Air, Land and Water*

# Housekeeping

- +200 people registered to the webinar
- Mics are muted
- Questions & Comments:
  - You can write them in “Chat” during the webinar
  - Oral questions & comments in Q&A session
- Let us know if you have audio/video issues in “Chat”
- Webinar will be recorded and posted on DEP YouTube Channel
- The Presentation will be also be made available



# Presenters

- **Kris Bears:** is an assistant environmental engineer in the Stormwater Engineering Team. Kris assisted in the development of the new MCGP.
- **Cameron Dufour:** is the Land Bureau's Biologist and a senior member of the field services and enforcement team.
- **Kerem Gungor:** is a licensed professional engineer and senior environmental engineer leading the Stormwater Engineering Team of the Department's Bureau of Land Resources. He is a member of the team that wrote the new MCGP.
- **John Maclaine:** runs the Department's Nonpoint Source (NPS) Training Center. The Center provides training and certification opportunities to individuals seeking to educate themselves on the effects of NPS in Maine. NPS Training Center will be instrumental in fulfilling the certification requirements of the new MCGP.



# Webinar Outline

- MCGP Background
- Path to New MCGP
- MCGP 2025: Components & Coverage
  - Obtaining Coverage under MCGP (Notice of Intent (NOI))
  - NOI Submittals
  - NOI Processing
  - Terminating Coverage under MCGP
- Question and Answer Session
- Final Remarks & Take-aways



# MCGP Background

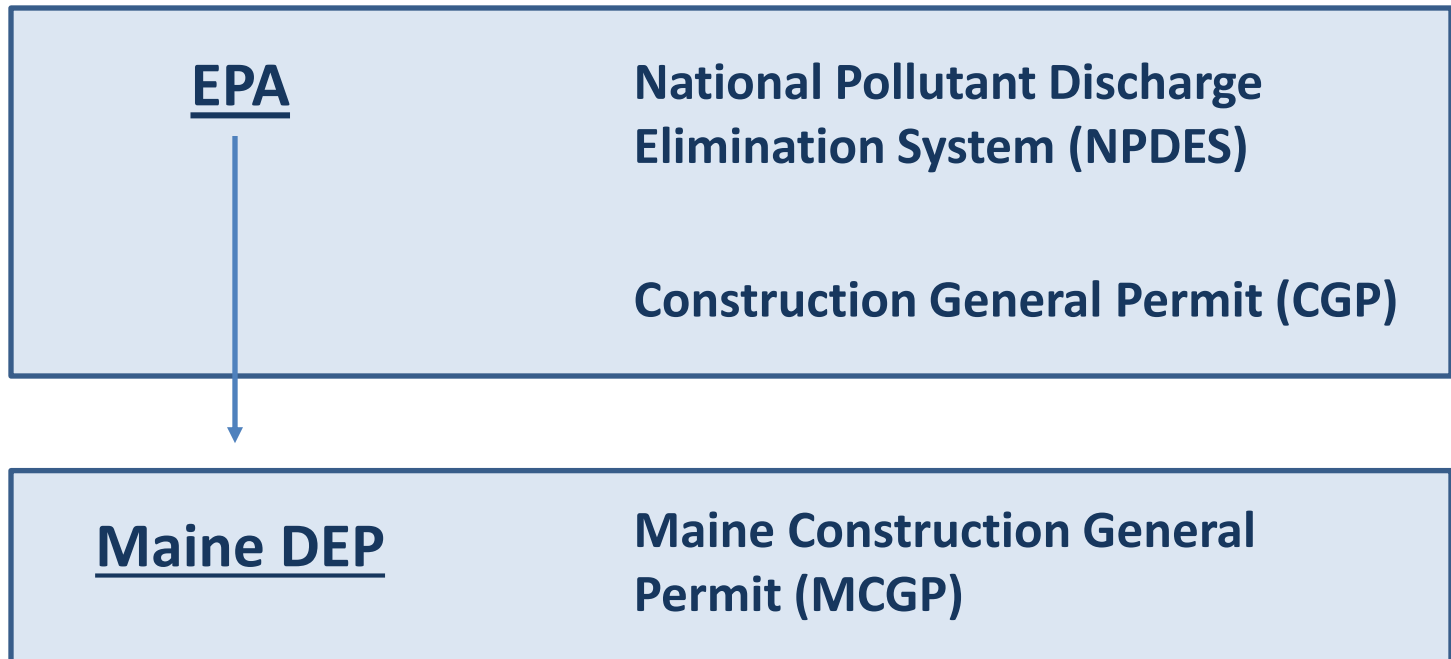


# What is MCGP?

- Authorizes the direct discharge of stormwater associated with construction to waters of the state provided that discharge meets
  - The requirements of MCGP and
  - Applicable provisions of Maine’s waste discharge and water classification statutes and rules
- The applicants submit a
  - “Notice of Intent (NOI)” to be covered under MCGP before construction
  - “Notice of Termination (NOT)” to end their MCGP coverage after construction



# CGP Permitting Authority

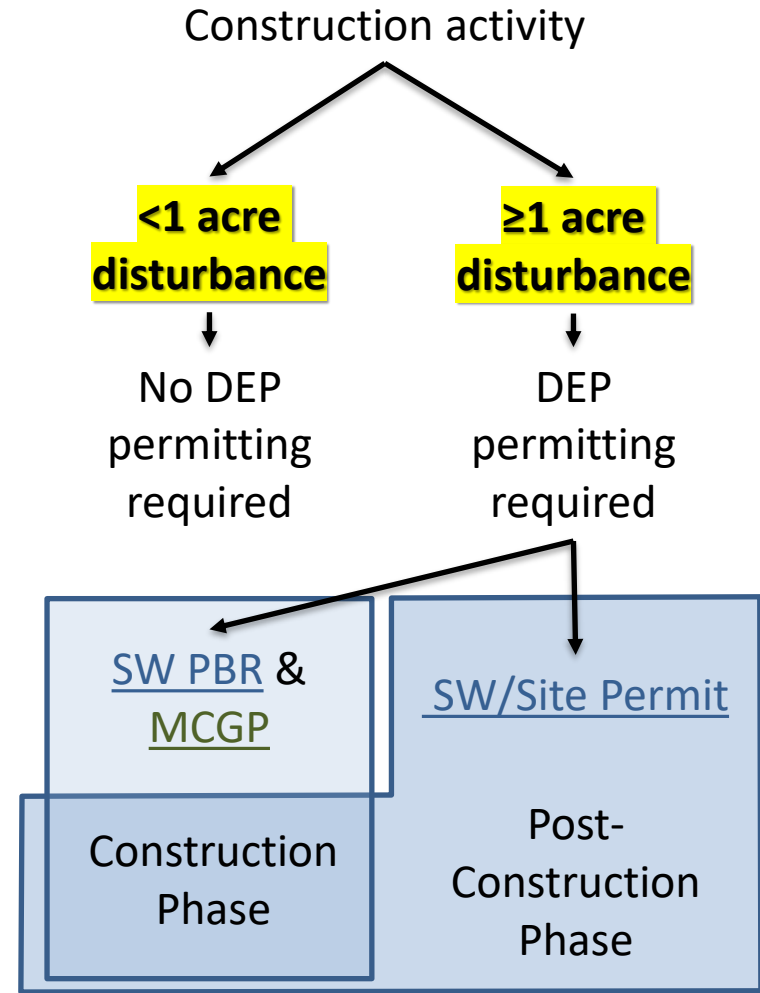


# What requires coverage under MCGP?

- Construction activities as defined in MCGP must seek coverage under MCGP.
- Threshold is  $\geq 1$  acre of disturbed area created during construction.
- Further DEP permits can be required for the proposed development, which spans both the construction and post-construction phases:
  - Stormwater Permit by Rule (SW PBR) or
  - Full Stormwater Law (SW) Permit or
  - Site Law Permit

## **Key MCGP Definition:**

- Construction Activity (Part II.A)





# Coverage: State Statutes vs. MCGP

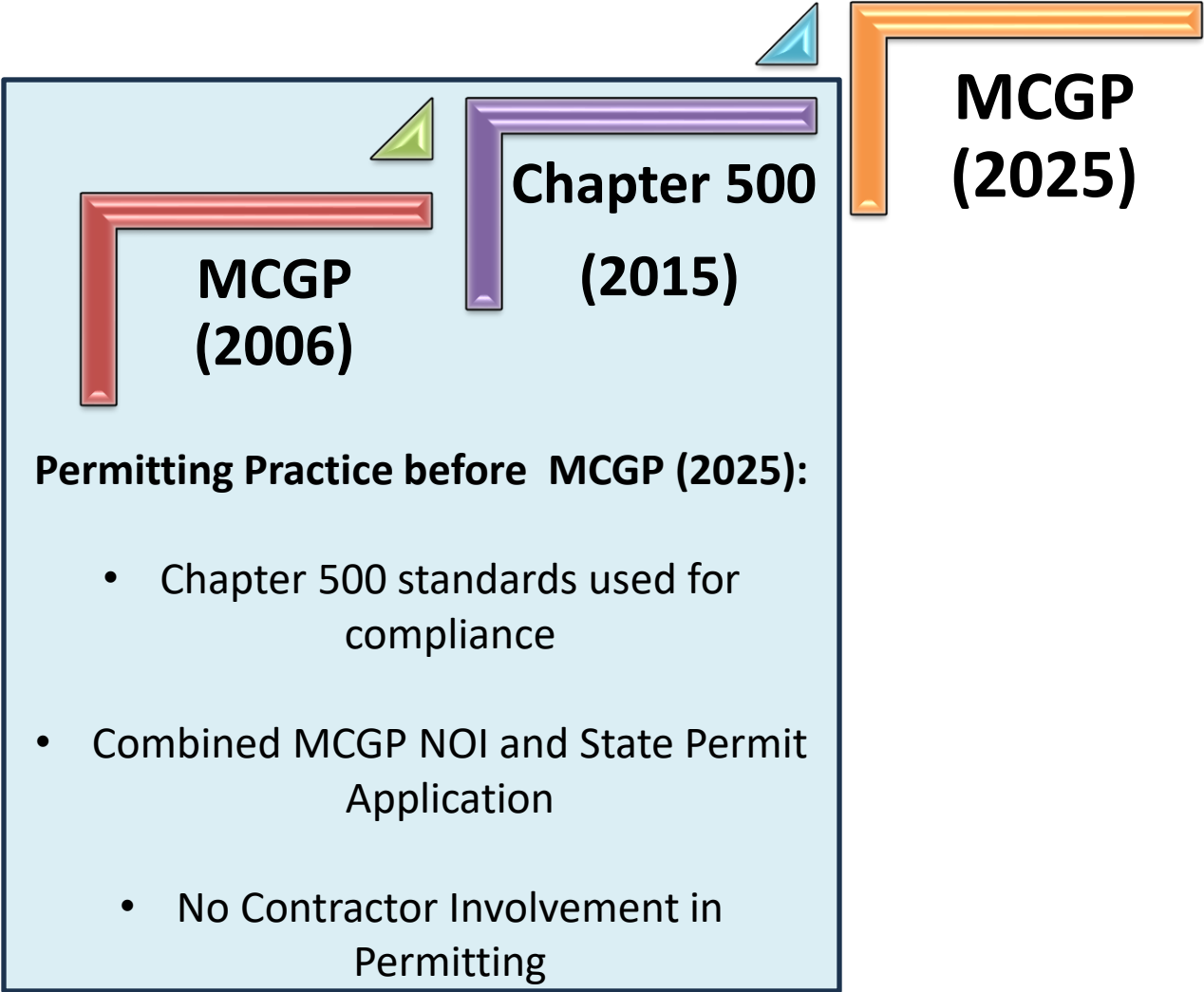
- Federally delegated MCGP covers all “construction activities” in Maine including the ones that are
  - In the unorganized territory of the State
    - **Example:** Stormwater Management Law only applies to the organized territory of Maine. Construction activities exempt from Stormwater Law permitting must still seek coverage under MCGP
  - Exempt under the State Statutes:
    - **Example:** Construction activity associated with a single-family residence is exempt under the Stormwater Management Law. The activity must still seek coverage under MCGP

## **Erosion and Sedimentation Control Law:**

- Applies to all construction in the state, including activities that disturb < one acre, which are exempt under the Stormwater Management Law and are not typically required to be covered under MCGP.



# Construction Stormwater Standards: Major Changes



# MCGP 2025: Major New Provisions

- **New Definitions (Part II):**
  - Operator → day-to-day operational control of the activities
  - Large Construction Activity →  $\geq 5$  acres of disturbed area
  - Stormwater Pollution Prevention Plan (SWPPP)
  - Resident Inspector → Represents the Operator on the activity site
- **Only “Operators” can seek coverage under MCGP:**
  - In most cases, Operator will be a Contractor
- **Two-step permitting for certain projects:**
  - Full Stormwater or Site Law Permit → MCGP Notice of Intent (NOI)
- **Certification requirements for:**
  - SWPPP preparation (All construction activities)
  - Civil contractor (Large construction activities)
  - Resident inspector (Large construction activities)
- **Large Construction Standards (Appendix D)**



# Path to New MCGP

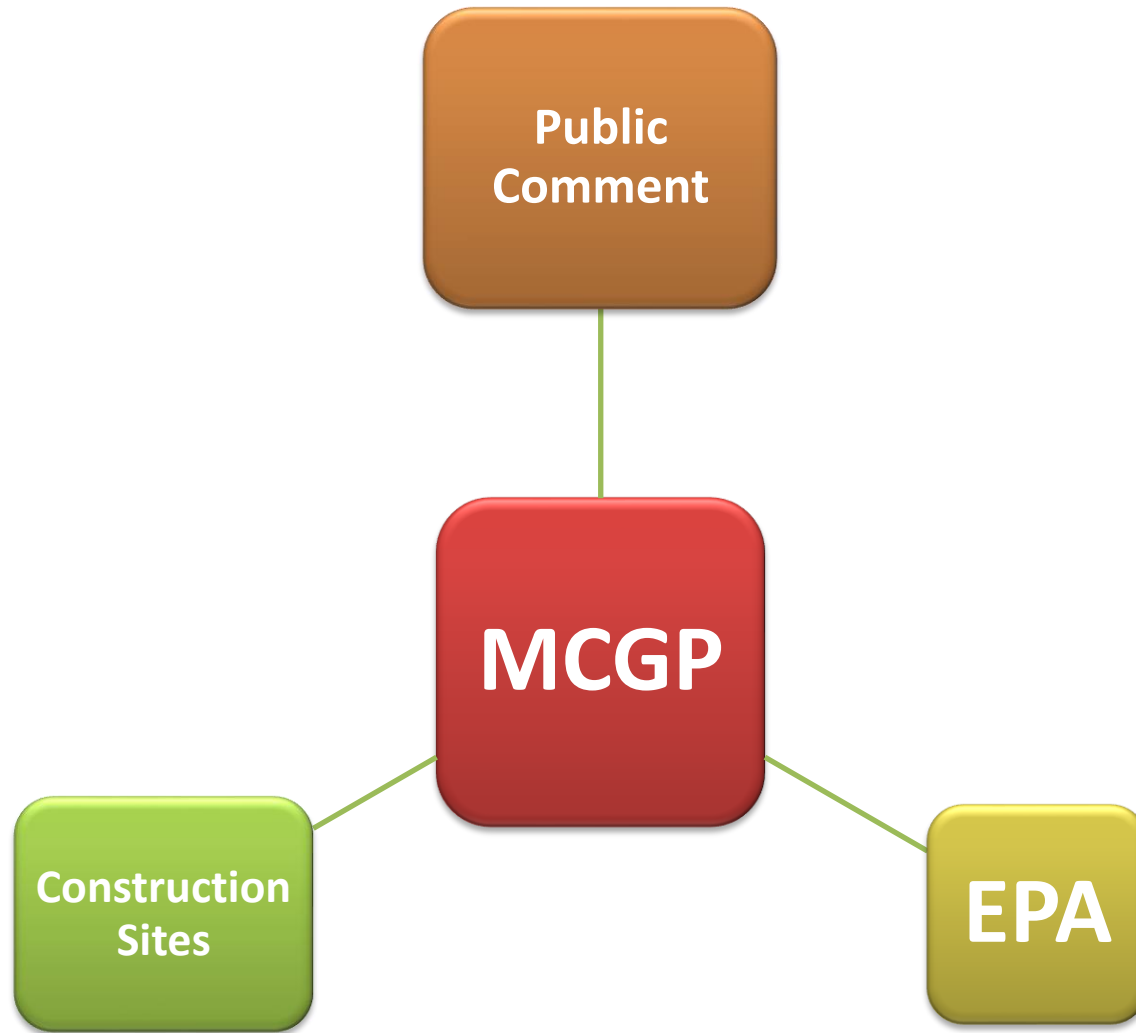


**MCGP had been expired and administratively continued for ~15 years.**

**EPA and DEP agreed the MCGP needed to be updated promptly.**



# MCGP Development Process

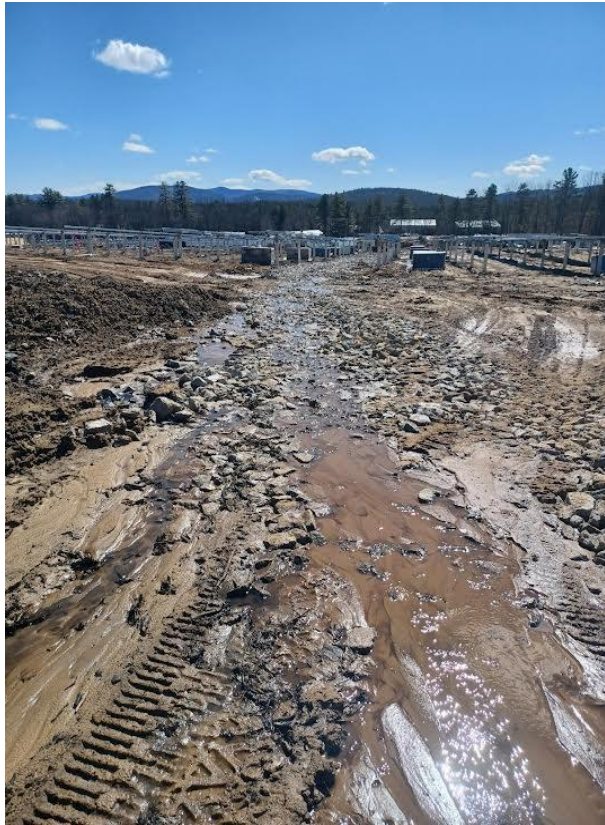


# **Construction Stormwater Challenges Justifying New Standards**









**The impacts have been observed to be far reaching, water from a fully open 50-acre site caused sediment to enter a stream, and discharge to Lovewell Pond – approximately one mile away.**

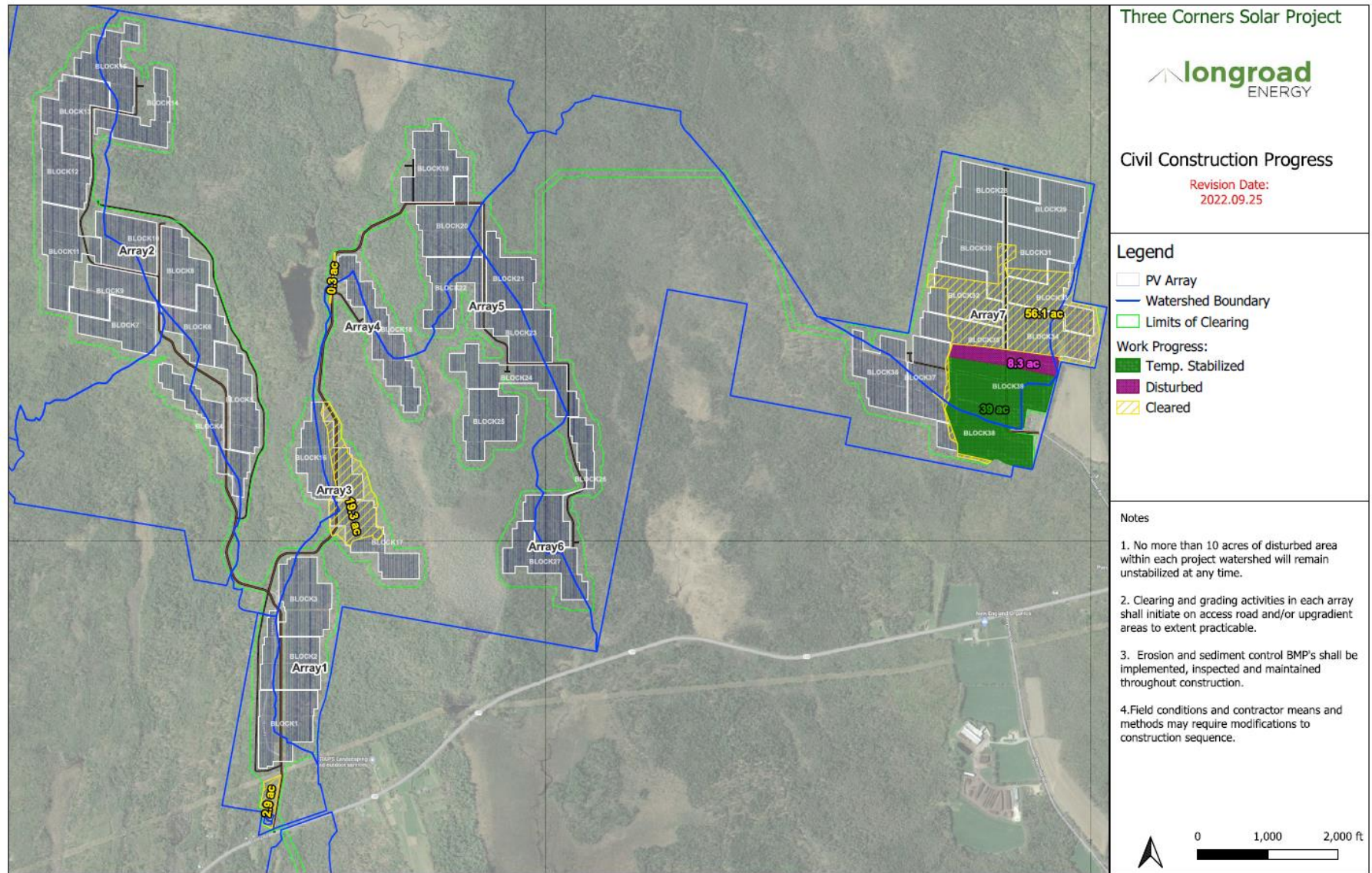


# Lovewell Pond is seen in the distance.

Solar Site has been discharging to Lovewell Pond for the past year with no corrective action



# Largest Solar Project: Zero Violation



# Construction Enforcement Efforts

- Open Cases: 12
  - All these cases did not follow Best Management Practices
- Typically hundreds of hours expended on an enforcement case
- The Board of Environmental Protection (BEP) is extremely concerned about the construction stormwater violations. BEP is asking for higher consent agreement penalties.



# **MCGP 2025: Components & Coverage**



# New MCGP Important Dates

- Effective Date: **1/14/2025**
- Expiration Date: **1/13/2030**
- Ongoing Construction Projects New NOI Submission Deadlines:
  - Projects < 5-acre disturbed area: **3/14/2025**
  - Projects ≥ 5-acre disturbed area: **4/14/2025**



# What is Operator?

- No Operator definition in the administratively continued 2006 MCGP

- New MCGP has a modified version of current EPA CGP:

*“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.”*



# Implication of the Operator Definition

- Any person who will retain a contractor to construct a project will not be able to apply for coverage under MCGP:
  - The contractor will be required to submit Notice of Intent (NOI) to seek coverage under MCGP
  - An authorized agent may sign on behalf of the operator/contractor
- People who will build their projects without a contractor can apply for coverage under MCGP,
- If a contractor has already been determined for the project, an NOI can be filed with a State permit application.





# Obtaining Coverage under MCGP (Part IV.A)



# Submittals (Part IV.A.1)



- **NOI Form:**
  - Name, location, address, narrative, signature, total disturbed area proposed, and:
  - **Anticipated construction begin date**
- **Department of Inland Fisheries & Wildlife (IF&W):**
  - IF&W approval for the activities within the Essential Habitats or that may violate protection guidelines
- **Location Map:**
  - 7.5-minute USGS or equivalent map
- **Site Photos**
- **SWPPP**



# SWPPP (Continued)

## 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.

## Erosion and Sedimentation Control (ESC)

### At a minimum, meet Appendix A standards:

- **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.
- **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.
- **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.



# SWPPP (Continued)

## Inspection & Maintenance

### At a minimum, meet Appendix B standards:

- **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.
- **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.
- **Task frequency.** Indicate the required frequency of each inspection and maintenance task.
- **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.

## Housekeeping

### At a minimum, meet Appendix C standards by submitting a plan addressing:

- spill prevention, groundwater protection, fugitive sediment and dust, debris and other materials, trench or foundation de-watering, or non-stormwater discharges



# SWPPP (Continued)

## New

### Large Construction Activities

#### Meet Appendix D standards:

- **Civil construction sequence.** A scaled plan sheet delineating areas to be disturbed in sequence.
- **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.
- **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.
- **Stump dump.** If applicable, the approximate location of stump storage areas shall be shown in the location plan.
- **Elevated erosion risk (EER) subcatchments.** If applicable, any EER subcatchments shall be shown in the location plan.
- **ESC notes.** If applicable, the following shall be provided:
  - Temporary sediment basin sizing calculations.
  - Narrative evaluating the condition of the existing dirt/gravel roads to be used by construction traffic.
  - Narrative evaluating the ESC challenges and opportunities posed by the site soils (e.g., HSG D → marginal soils, HSG A & B → can be utilized for construction runoff and sediment control).
  - Erosion Risk Assessment (ERA) data and narrative.
  - Additional controls that apply to EER watersheds.



# Basic Performance Standards

## Appendix A – ESC

**New** in the upcoming MCGP as compared to the administratively continued 2006 MCGP:

- **Buffers**
- **Preserve native topsoil**
- **Minimize soil compaction**
- **Avoid disturbance to high infiltration capacity soils**
- **Temporary sediment basins**
- **Cationic treatment chemicals**
- **Utility trench stabilization**
- **Laydown and Staging areas**



## Appendix B – Inspection and Maintenance

- **Perimeter fence shall not restrict I&M of BMPs**

## Appendix C – Housekeeping

Spill prevention, fugitive sediment and dust control, material storage, dewatering standards.



**NEW!**  
**(MCGP only)**

## Appendix D

# Large Construction Activities

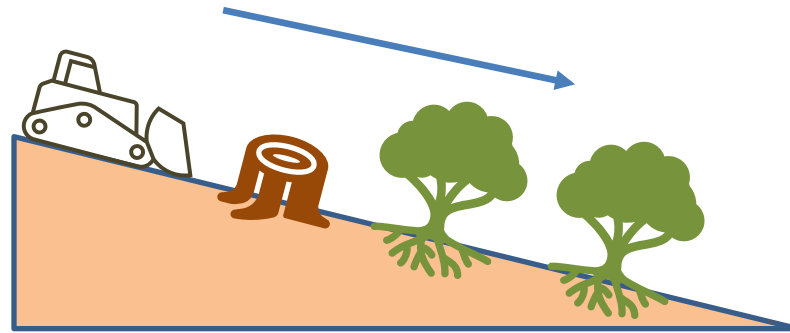
- Large Construction  $\geq$  5 Acres Disturbed Area
- Total Disturbed Area: Sum of Disturbed Area in All Watersheds

| Level | Total Disturbed Area<br>(acres)             |
|-------|---|
| I     | Equal to or greater than 5 & less than 20   |
| II    | Equal to or greater than 20 & less than 100 |
| III   | Equal to or greater than 100                |



# Appendix D – Construction Sequencing & Open Disturbed Area

Sequence soil disturbance upslope-downslope direction → apply to all project levels.  
Exception: Construction of the stormwater control measures including conveyances.



| Project Level | Maximum “Open Disturbed Area*” Allowed: |
|---------------|---|
| I             | 5 acres                                 |
| II            | 10 acres                                |
| III           | 10 acres**                              |

\*: Disturbed Area without Temporary or Permanent Stabilization  
\*\*: 10 acres per watershed can be allowed provided that the watershed outlets are sufficiently apart from each other





# Appendix D – Qualified Personnel



**Dedicated Environmental Crew:** **Level III** projects must have a dedicated environmental crew tasked with installation, inspection, maintenance, and repair of ESC measures.

**Certified Inspector:** **All large construction** projects must have a “resident inspector” certified in ESC practices by the Department.

**Level II and III** projects must have a Department-approved third-party inspector to ensure overall compliance with the general permit.

**Certified Contractor:** **All large construction** projects must have a civil contractor who is certified in erosion control practices by the Department. .

# DEP Certification in Erosion Control Practices

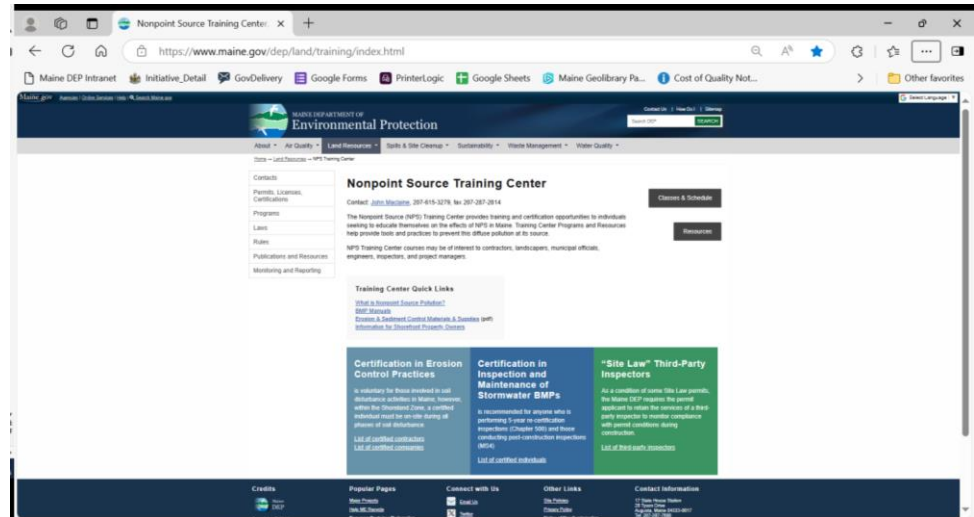
## (Previously known as “Certified Contractor Program”)

- Established in 1997 as a voluntary program
- Approximately 4600 Certified Individuals
- 64 Certified Companies
- In 2013, it became a legal requirement for contractors disturbing soil in the Shoreland Zone
- Other programs requiring certification:
  - Certified Tank Installers (BUSTI), Certain DACF/DOT Contracts, MCGP



# Getting Certified in ESC

- STEP 1: 8 Hour Training
- STEP 2: Demonstration of competency via installation photos, inspection report, or site-specific erosion control plan
- Continuing Education Requirements

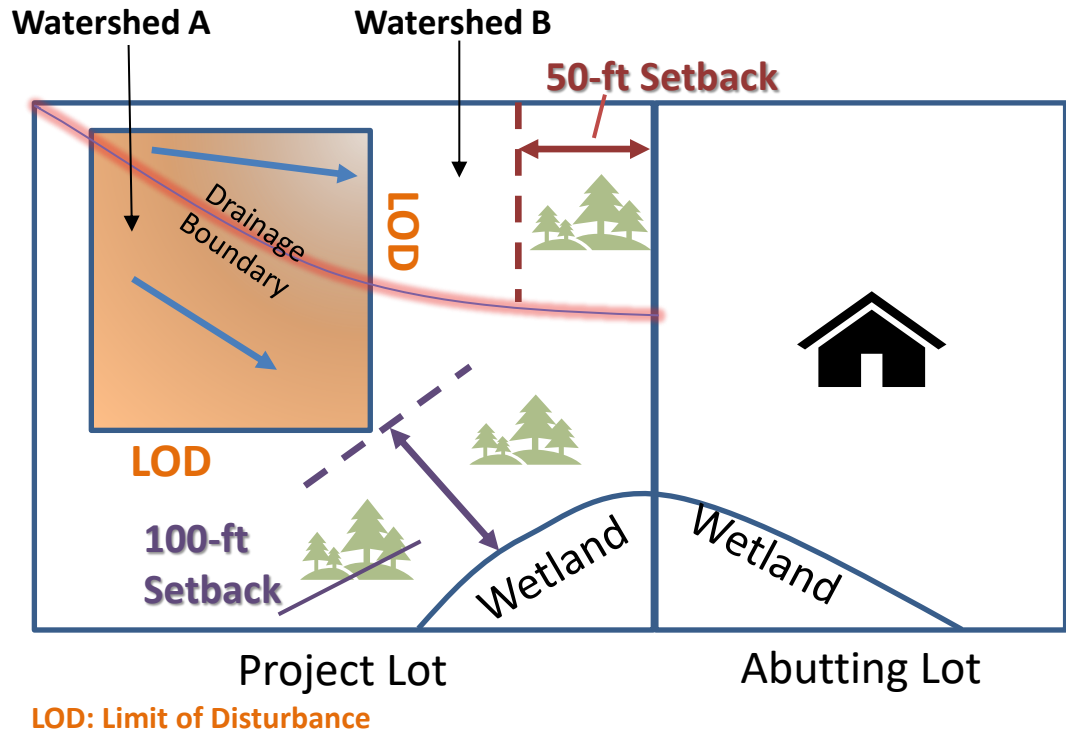


<https://www.maine.gov/dep/land/training/>

# Appendix D – Natural Buffer/Setback

Whenever practicable:

- a. A minimum 100-ft setback should be provided between the limit of disturbance and downslope protected natural resource,
- b. A minimum 50-ft setback should be provided between the limit of disturbance and downslope parcel,



If buffers cannot be provided, meet Temporary Sediment Basin and Erosion Risk Assessment standards.



# Appendix D – Additional Requirements for Projects Not Meeting the Setback Standard

## Temporary Sediment Basin

- Install if the contributing drainage area of the perimeter control is greater than ten acres.

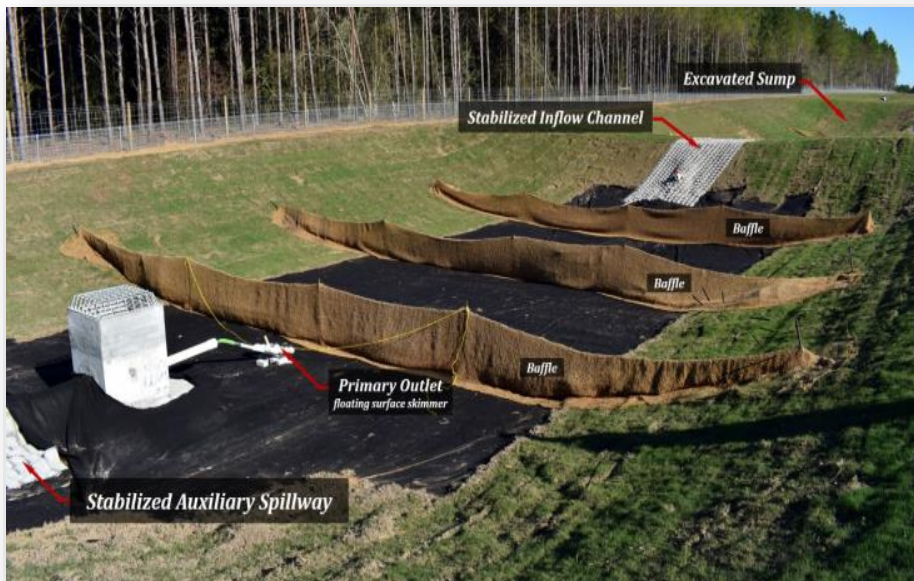


Photo Credit: IECA Temporary Sediment Basin Design Guide

## Erosion Risk Assessment

- Based on average slope of the subcatchment and erodibility of existing soils.

Is Erosion Factor for Whole Soil ( $K_w$ )  $\geq 0.37$ ?  
&  
Is Watershed Average Slope  $\geq 5\%$ ?

YES

### Additional Controls:

- Double sediment barriers,
- Temporary seeding as soon as practicable,
- Mulch at the end of the workday,
- No earthwork during mud days,
- Slope interruption measures with a maximum spacing of 100 ft.



## Appendix D – Soil Testing



- Applies to all large construction projects that will stabilize 50% or more of the disturbed area by revegetation:
- After the area to be revegetated is brought to final grade, soil testing must be performed to determine any soil amendments necessary for revegetation.
- Topsoil, compost, fertilizers, and other soil amendments must be applied at rates based on the soil test results to facilitate rapid growth of the plants selected for permanent stabilization.



# Appendix D – Other Standards

| Project Level          | I      | II      | III      |
|---|--------|---------|----------|
| Standard               |        |         |          |
| On-site Minimum Straw/Hay Mulch Storage   | 9 tons | 18 tons | 18 tons* |
| Dedicated Environmental Crew  | N/A    | N/A     | X        |
| Certified Resident Inspector  | X      | X       | X        |
| Third-party Inspector   | N/A    | X       | X        |
| Certified Civil Contractor  | X      | X       | X        |
| Monthly Progress Plan Submission: “Cleared”, “Open”, “Temporarily Stabilized”, “Permanently Stabilized” | N/A    | X       | X        |
| Electronic Inspection and Maintenance Log   | X      | X       | X        |
| Electronic Inspection and Maintenance Log on “Cloud” & Automated Weather Monitoring                     | N/A    | N/A     | X        |



# NOI Processing (Part IV.A.2)





- Except for emergency-related activities, an NOI must be reviewed and approved by the Department prior to construction activity,
- Emergency Activities: A complete NOI must be submitted within 30 calendar days after commencing earth-disturbing activities.
- 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.



Applicant: Developer  
Contractor: To Be Determined



Current:  
2006 MCGP & 2015 Chapter 500



State Permit Issued

Contractor

Interim:  
2025 MCGP & 2015 Chapter 500

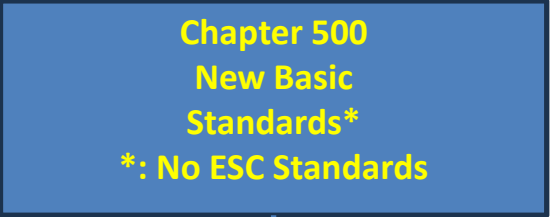


State Permit Issued

Operator (Contractor)



Future:  
New MCGP & New Chapter 500



# BLR Stormwater PBR Workflow

**Current:**  
2006 MCGP & 2015 Chapter 500



\*: Use stricter Chapter 500 standards for MCGP NOI

**New:**  
2025 MCGP & 2015 Chapter 500



\*\* : Use stricter MCGP standards for SW PBR  
SET: Stormwater Engineering Team



# **BLR Stormwater & Site Law Workflow**



Current:

2006 MCGP & 2015 Chapter 500

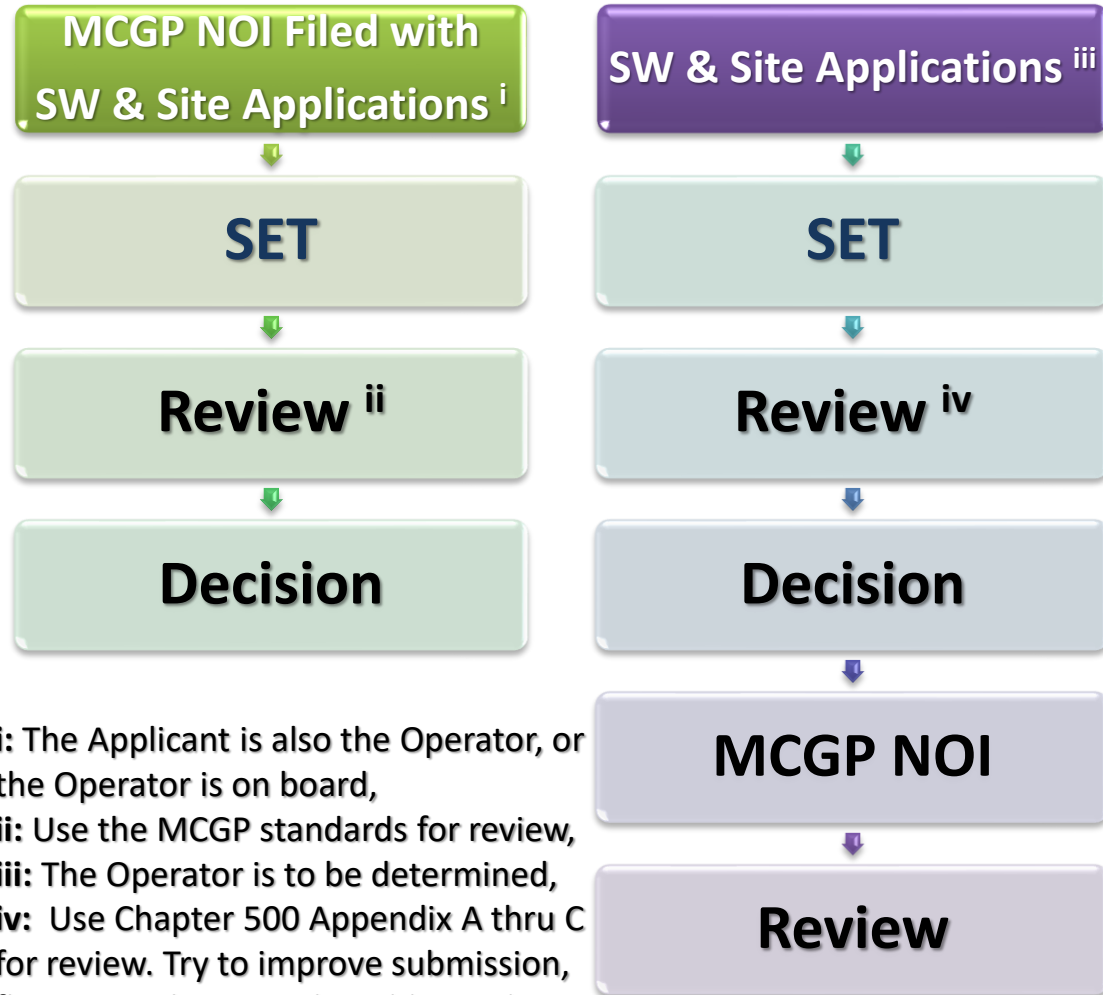


\*: Use stricter Chapter 500 Appendix A thru C for MCGP NOI

SET: Stormwater Engineering Team

Interim (Until New Chapter 500):

2025 MCGP & 2015 Chapter 500



i: The Applicant is also the Operator, or the Operator is on board,  
ii: Use the MCGP standards for review,  
iii: The Operator is to be determined,  
iv: Use Chapter 500 Appendix A thru C for review. Try to improve submission, flag issues that must be addressed with MCGP NOI.



# Terminating Coverage (Part IV.B)



# Notice of Termination (NOT)

- 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.
- A permittee's authorization to discharge under this permit terminates at **midnight on the day the NOT is signed**.
- Submission:
  - 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.**
  - Photos showing the project area



# Final Remarks & Takeaways





# MCGP 2025: Major New Provisions

- **Only “Operators” can seek coverage under MCGP:**
  - In most cases, Operator will be a Contractor
- **Two-step permitting for certain projects:**
  - Full Stormwater or Site Law Permit → MCGP Notice of Intent (NOI)
- **Certification requirements for:**
  - SWPPP preparation (All construction activities)
  - Civil contractor (Large construction activities)
  - Resident inspector (Large construction activities)
- **Large Construction Standards (Appendix D)**



# Ongoing Construction Activities Must Submit New NOIs

Disturbed Area < 5 acres

- New NOI by 3/14/25

Disturbed Area  $\geq$  5 acres

- New NOI by 4/14/25



# New Online Permitting System

- DEP will be implementing a new online portal to submit, manage, and track project applications.
- Operators (or authorized agents) will create a "site" associated with the proposed project
- MCGP NOIs will be submitted for the proposed project through the portal



# MCGP Web Page & Contact

- For Webinar Follow up: Kerem Gungor (kerem.Gungor@maine.gov)
- MCGP and Supplementary Documents are on the updated MCGP webpage:

<https://www.maine.gov/dep/land/stormwater/construction.html#supp>

- General MCGP Permitting Questions:
  - DEP On-call System:
    - Augusta: 800-452-1942
    - Bangor: 888-769-1137
    - Portland: 888-769-1036
    - Presque Isle: 888-769-1053



# Q & A Session

- You can ask a question
  - in chat
  - by raising your virtual hand in Teams
- Please state your name and organization before asking your question
- We will send answers to the questions not answered in this session via e-mail





[\*www.maine.gov/dep\*](http://www.maine.gov/dep)

