

**Appendix**  
**D.7**

**MDE/WMA Overview of the NPDES  
Stormwater Program**

## Background

The United States Environmental Protection Agency (EPA) issued final regulations in November 1990 that require National Pollutant Discharge Elimination System (NPDES) Permits for stormwater discharges associated with industrial activity. These regulations require permits for stormwater discharges associated with eleven categories of industrial activities and municipal separate storm sewer systems. Within the Maryland Department of the Environment (MDE), these permits are being administered by the Water Management Administration (WMA). Ten of these industrial activities are being permitted by one general permit, the General Industrial Discharge Permit, implemented by WMA's Wastewater Discharge Permit Program. However, industry-specific general permits are currently being drafted.

Examples of these activities are hazardous waste treatment facilities; landfills; open dumps receiving industrial waste; steam electric power generating facilities; mass transit, school bus, and trucking facilities; hazardous waste storage facilities; land application sites; recycling facilities (junk yards, etc.); vehicle maintenance facilities; and treatment works for domestic sewage. The eleventh industrial activity subject to the stormwater discharge permit requirements is construction activity with a planned total disturbance of five acres\* or more. Construction activity, along with municipal separate storm sewer systems, are permitted by MDE/WMA's Compliance Program. Construction activity is being permitted by a general permit that covers only construction, the General Permit for Construction Activity. \* **Area of disturbance subject to NPDES regulatory changes.**

## Regulatory Requirements for Construction Activity in Maryland

EPA's regulations [40 CFR (Code of Federal Regulations) 122.26] provide for three types of applications for industrial stormwater discharge permits: an individual application, a group application, and a Notice of Intent (NOI) to comply with a general permit. 40 CFR 122.26(b)(14) identifies construction activity, including clearing, grading, and excavating, as one of the categories of "industrial activity." 40 CFR 122.26(c)(1)(ii) requires that the following information be provided on the NPDES permit application for construction activity:

- (A) The location and the nature of the construction;
- (B) The total area of the site;
- (C) Proposed measures, including best management practices, to control pollutants in stormwater discharges during construction;
- (D) Proposed measures to control pollutants in stormwater discharges that will occur after construction has been completed;
- (E) An estimate of the runoff coefficient of the site and the increase in impervious area after construction; and
- (F) The name of the receiving water.

Because Maryland presently has programs in place to control erosion, sediment and stormwater for new development activities, MDE/WMA has composed its NPDES General Permit in such a way so as not to change current erosion and sediment control and stormwater management requirements. Through the review and approval and subsequent inspection and enforcement processes for erosion and sediment control and stormwater management, the majority of information required to be submitted under 40 CFR 122.26(c)(1)(ii) will have already been supplied to agencies responsible for construction site evaluation according to Maryland's current laws and regulations (Environment Article Title 4. Subtitle 1; Subtitle 2; COMAR 26.17.01; and COMAR 26.17.02). For this reason, MDE/WMA Simply, operators of construction activity will be complying with 40 CFR 122.26 if they comply with current Maryland law.

### **The General Permit**

Construction activity in Maryland with a planned total disturbance of five acres\* or more will be required to be covered by the General Permit for Construction Activity. Coverage under this Permit mandates that the permittee be held accountable for complying with the terms of the General Permit. Compliance with the terms of the General Permit shall be in compliance with EPA's stormwater regulations.

While Maryland law requires erosion and sediment control and stormwater management plan approval prior to the commencement of construction for any earth disturbance of 5,000 square feet or more, General Permit coverage will be required only for construction activity with a planned total disturbance of five acres\* or more. Plans must still be approved and remain active during the construction phase, as per existing Maryland law.

Permittees are encouraged to submit only one NOI for the entire project, even if plans are not approved for subsequent phases/stages of development. The completed NOI form is considered an application for coverage under the General Permit. The NOI is to be completed by the permittee and will require that general information describing the construction activity be provided. The completed NOI form must be submitted at least 48 hours prior to any earth disturbing activity and the appropriate application fee must accompany the submitted NOI.

### **Who Is Covered by the General Permit?**

It is intended that the General Permit cover construction activity in Maryland with a planned total disturbance of five acres\* or more. This includes phased/staged construction projects, even if individual phases will disturb less than five acres. Current Maryland law requiring approved erosion and sediment control and stormwater management plans for earth disturbances exceeding 5,000 square feet remains unchanged.

The permittee who applies for coverage under the terms of the General Permit shall be held

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accountable for complying with all of the terms of the General Permit. A person who has submitted

a Notice of Intent (NOI) and does not intend to be responsible for controlling the permitted activities on site must transfer authorization under the General Permit to a duly authorized person. Upon transfer, this duly authorized person shall be held accountable for compliance under the terms stated in the General Permit.

### **How is Coverage Obtained?**

Coverage under the General Permit is obtained by filing a completed Notice of Intent (NOI) form with the Maryland Department of the Environment, Water Management Administration (MDE/WMA). The completed NOI form is considered a formal application for coverage and intent to comply with the terms of the General Permit.

### **What is the Procedure for Application?**

For construction activity with a planned total disturbance of five acres\* or more, General Permit coverage is required. NOI forms are available at local plan review offices and at MDE. NOI forms must be complete and include the signature of the permittee in order to be processed. Completed NOI forms must be submitted with the appropriate application fee (see below) to the Maryland Department of the Environment, Water Management Administration, P.O. Box 1417, Baltimore, Maryland 21203-1417. Receipt by MDE/WMA of the completed NOI form will authorize coverage under the terms of the General Permit. Upon receipt of the completed NOI form, MDE will mail a verification letter and a copy of the General Permit to the permittee. Once the construction activity is completed, including final stabilization and the elimination of all stormwater discharges authorized by the General Permit, the permittee must submit a Notice of Termination form to MDE/WMA. Forms are available at local plan review offices and at MDE.

The application fee schedule for stormwater discharges associated with construction activity is as follows:

<u>Total Disturbed Area (acres)</u>	<u>NOI Fee (dollars)</u>
less than 5	Exempt
5 to less than 10	\$100
10 to less than 15	\$500
15 to less than 20	\$1,500
20 and up	\$2,500

### **What Information is Required on the NOI Form?**

Information required on the NOI Form is general information describing the construction activity. Much of this information can be provided directly by the permittee from prepared site plans and any other necessary information should be available at the local plan review offices. The component parts of the NOI form are outlined below:

- I. Site Name and Location including name and general location of the site; MD Grid Coordinates; latitude and longitude; watershed basin code;
- II. Project Description including stormwater management BMPs to be implemented and drainage area for each type of BMP; brief project description; total site area/disturbed area; runoff curve numbers; estimate of total impervious surface area; the project types, as a county/municipal or private entity and its eventual use as residential, commercial or industrial; Standard Industrial Classification (SIC) code; any other NPDES permit number; name of eventual receiving waters/ storm sewer system receiving the site's runoff;
- III. Permittee Identification including name/company and address of permittee and name and phone number of the principal contact person for the site;
- IV. Certification including a certification statement to be signed by the permittee;
- V. Fees including the fee amount to be paid with the NOI submission.

MDE issued a new Notices of Intent form for use beginning in 1994. This form is a scanner compatible "bubble" form, replacing the original single page handwritten form. This form is the one currently being accepted by MDE and it is available at local plan review offices and at MDE.

Additionally, MDE has developed a new State and Federal NOI form, to be used for all state and federal construction projects. This is a separate NOI form, labeled "For State and Federal Government Project Only," but it is not significantly different from the standard NOI form.

### **When Must the NOI Form be Submitted?**

The completed NOI must be submitted to the Water Management Administration at least 48 hours prior to the commencement of construction activities. This is applicable to all construction activity with a planned total disturbance of five acres\* or more that is active as of October 1, 1992 and any such construction activity beginning on or after October 1, 1992. Such construction will need to be permitted under the General Permit. The application fee is due at the time of NOI submission. Checks and money orders only will be accepted and should be made payable to MDE.

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MDE has supplied local plan review offices with NOI forms. Forms and information may also be obtained at MDE. It is the responsibility of the permittee to accurately complete the form and submit it to MDE/WMA.

### **Miscellaneous**

Coverage under the General Permit is effective until MDE is notified by the permittee that construction is complete. Submission of a Notice of Termination form to MDE will indicate that construction activity is complete, areas are stabilized, and authorized stormwater discharges have been eliminated (the address is given at the end of the Appendix).

No effluent limitations have been established for stormwater discharges from construction sites. However, the General Permit requires Permittees to visually inspect erosion and sediment controls on a weekly basis and the next work day after a storm event. Permittees are required to maintain, on site during construction, written documentation of the findings and any subsequent maintenance that is performed. These records must be kept for a period of three years following final stabilization of the site and must be made available upon request.

The permittee shall be held accountable for compliance under the term of the General Permit. A person who has submitted an NOI and does not intend to control the permitted activities on the site must transfer authorization under the General Permit to a duly authorized person. Upon transfer, the duly authorized person shall be held accountable for compliance under the terms stated in the General Permit.

Although coverage under the General Permit does not involve additional regulations, it should be noted that because construction activity now falls under the Clean Water Act (CWA), federal penalties will apply to violations. Both state and federal civil and criminal penalties will apply to violations occurring under General Permit coverage.

Further information regarding the General Permit and the NOI form can be obtained by contacting:

The Maryland Department of the Environment  
Water Management Administration  
Compliance Program  
2500 Broening Highway  
Baltimore, Maryland 21224  
(410) 631-3510