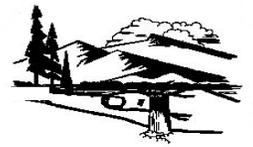




Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor



Todd Parfitt, Director

FACT SHEET
for the
State of Wyoming
LARGE CONSTRUCTION GENERAL PERMIT
for
Storm Water Discharges
Associated with Large Construction Activities
 (Permit WYR100000)
 Renewal

Changes to the Draft Permit

Changes to the draft permit as a result of comments received are noted below in italics.

Barb Sahl

August 1, 2020

Introduction

This general permit will replace the current permit which was issued in 2016 and expired February 1, 2020 (and is now administratively continued). This permit regulates storm water discharges from all construction activities that disturb five or more acres. Also covered are discharges from smaller construction activities if they are part of a larger common plan of development or sale that will ultimately disturb five or more acres. Storm water discharges from small construction activities (disturbance of one to five acres) are covered under a separate permit called the small construction general permit (WYR10-A000).

Background

Congress amended the CWA in 1987 to establish a comprehensive framework for addressing storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. On November 16, 1990, the Environmental Protection Agency (EPA) published "Phase 1" regulations requiring all storm water discharges associated with industrial facilities, including construction projects where five or more surface acres are disturbed, to obtain NPDES permits. In Wyoming the program is known as the Wyoming Pollutant Discharge Elimination System or WYPDES. Wyoming storm water regulations are found in the Wyoming Water Quality Rules and Regulations, Chapter 2. WYPDES storm water permits require the operator to minimize or eliminate pollutants, including sediment, in storm water runoff from the permitted facility.

General Permits

A "tool" which can be used to issue a large number of permits with a relatively small administrative burden, is the "general permit." Under the general permitting approach, a single generic permit is issued to cover a large number of similar discharges within a geographic area. Since 1992 the WDEQ has authorized more than 6000 construction projects to discharge storm water under general permits. At this time, there are nearly 500 large construction sites covered under the current permit.

Discharges Covered

WDEQ will be issuing this new general permit to dischargers of storm water associated with large construction activities. Specifically, this permit will cover storm water discharges from any clearing, grading or excavation project which will disturb five or more (not necessarily contiguous) surface acres and smaller disturbances which are part of a larger common plan of development or sale. Discharges of storm water from associated asphalt batch plants, concrete batch plants, and sand and gravel operations may be covered by this permit under the limited conditions described in Part 1.2.2 of the permit. Construction site dewatering of collected storm water and minor amounts of ground water may also be discharged under this permit provided the requirements of Part 7.11 are met. Discharges of process water from asphalt and concrete batch plants and sand and gravel operations cannot be authorized by this permit. Non-storm water discharges require coverage under another WYPDES permit.

Obtaining Coverage

Under the permit, “operators” who are required to obtain a WYPDES permit to discharge storm water must prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit it along with a Notice of Intent (NOI) to the WDEQ 30 days before beginning construction activities. The SWPPP describes potential pollution sources and the best management practices (BMPs) which will be used to prevent storm water contamination. The NOI describes the construction project and route(s) that storm water may take from the construction site to surface waters of the state. WDEQ reviews the NOI to determine if the operator may discharge storm water under the general permit, or if an individual WYPDES permit is required.

For those facilities that may discharge storm water to class 1 waters, a pre-authorization site visit may be required prior to covering the project.

Permit Requirements

Operators covered under this permit ensure, through implementation of the facility SWPPP, that storm water discharges from their facility do not cause a violation of state surface water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations. Furthermore, storm water discharges shall not cause pollution, contamination or degradation to waters of the state.

Operators are required to periodically inspect the BMPs they use to minimize offsite transport of pollutants. The results of inspections must be documented and, if necessary, changes made to site BMPs to address deficiencies in pollutant removal.

Coverage must be continued by the operator until the construction site is “finally stabilized.” Final stabilization means that areas of the construction site that do not have permanent structures such as buildings or roads must be revegetated with perennial vegetation to a uniform 70% of natural background cover. For example, a disturbed area where the normal vegetative cover is 50% must be revegetated to a uniform cover of 35%; (70% of 50%).

Notable Changes from the Previous Permit

A number of changes and clarifications have been made to the permit with the goal of improving permit clarity. Other changes were made to improve permit effectiveness. A summary of notable changes to the permit is provided below.

General

The permit term has been increased from four years back to a typical five-year term. The previous permit term was shortened in order to adjust the expiration dates of the three largest storm water general permits (large construction, mineral mining, and industrial) to spread future expiration dates out into separate years.

Section and paragraph references throughout the text have been updated wherever needed.

The permit expiration date has been changed to August 1, 2025.

Preamble: No changes to this section.

Part 1: Coverage Under This Permit: No changes to this section.

Part 2 – Definitions

A definition for Division was added. In this permit, Division refers to the Water Quality Division (Part 2.7).

A definition for Legally Responsible Person (LRP) has been added. The LRP refers to those who are eligible to sign NOIs and other reports required by the permit. Specific details on eligibility are found in the permit at Part 11.7 (Part 2.11).

The definition of nForm was removed (along with all other references throughout the permit). nForm was expected to allow operators to file for storm water permit coverage online. nForm was never made available to the public.

A formal definition of Permittee has been added. An operator that has applied for and secured coverage under the Large Construction General Permit is the permittee for that project. Typically a permittee is a company, but also may be an individual (Part 2.13).

Part 3 – Notice of Intent - Obtaining an Authorization to Discharge

Part 3.3 has been renamed to “Review of applications.” The section has been expanded to be more descriptive of the review process and the potential outcomes. More detailed information is provided on what actions can occur on submission of an application from issuance of a Letter of Authorization (LOA) to a request for further information to denial of an authorization.

Removed Part 3.4.3, addressing expedited processing for applications/SWPPPs where sediment ponds were planned for the construction site. Expedited processing was disallowed under the permit issued in 2011. This paragraph was removed. Permitting sediment detention facilities still requires authorization under Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 11, Section 3 permits are handled by the Water & Waste Water Program.

Add new Part 3.4.3 to clarify that expedited processing is dependent on available staff time. Most expedited processing requests have historically been honored, but occasionally staff is simply not available to provide a 10-day or less turn around.

Part 3.5 NOI submission. References to nForm have been removed. This was an online application program that was expected to become available during the term of the 2016 permit. Unfortunately, nForm did not prove functional and was never deployed. New Part 3.5.2 was added to note that a different online permit application

may be available during the term of this draft permit and that information for that system will be available on the storm water website.

A new Part 3.6 was added to describe the current practice of issuing authorizations for storm water discharges from some dispersed construction projects that occur over a large area. The most common use of these “field-wide” authorizations is in the oil and gas field, particularly construction associated with pad and access road development and construction of gathering systems that will transport product to market. Projects authorized under this process must meet all conditions of this permit and they are required to report annually about what parts of their project have achieved “finally stabilized” condition in the past year and an estimate of where construction is anticipated in the coming year. The typical field-wide permit covers all construction conducted by a single operator within a defined geographic area and is normally issued for projects expected to disturb 300 or more acres distributed over a large area during the life of the project. Issuance of a field-wide authorization is solely at the discretion of the Storm Water Program.

Part 3.7.5 addressing sage grouse core area determination was modified to update the reference to the current Executive Order 2019-3.

Additional language as added to make clear that operators must determine if their project falls within Sage Grouse Core Area OR any non-core population areas subject to Executive Order 2019-3.

A new Part 3.7.6 was added to require compliance with Executive Order 2020-1, Mule Deer and Antelope Migration Corridor Protection. Applicants must determine if their project falls within any approved migration corridor. For those projects where any part of the project lies within protected corridor, a consultation with the Wyoming Game & Fish Department (WGFD) is required.

Subsequent paragraphs were renumbered as needed.

Part 3.6.14 addressing sediment basins and ponds has been removed. These features continue to be permitted under WWQRR Chapter 11, Section 3 through the Water & Waste Water Program.

Part 3.8.4 addressing Sage Grouse Core Area was modified to address non-core population areas. A letter of consistency from the WGFD is required for all projects subject to Executive Order 2019-3.

A new Part 3.8.5 was added to address migration corridors and require a letter of consistency from the WGFD for all projects subject to Executive Order 2020-1.

Subsequent sections were renumbered as needed.

Part 3.9, Renewing an existing authorization to discharge. The expiration date was updated to February 1, 2025 and references to nForm were removed as that online application was never launched publicly.

Part 3.9, Continuation of coverage under a renewed master general permit. Updated issue and expiration dates.

A new Part 3.10.8 was added to address the administrative continuation of the general permit where a new permit is not ready on the expiration date of the existing permit.

Part 4 – Notice of Transfer and Acceptance (NOTA) No changes to this section.

Part 5 – Notice of Termination (NOT)

Information was added to Part 5.3.1 to clarify that where vegetation is used to stabilize a disturbed area, it is the leaf/canopy cover that must be used to determine whether or not a site meets “Finally Stabilized.” Seeding alone does not meet the definition of Finally Stabilized nor does frozen or snow covered ground.

Part 5.3.4.4 has been changed to require homebuilders to demonstrate that they did, in fact, provide a new homeowner with the fact sheet required in this section. A link to the fact sheet is provided in this paragraph.

Part 6 – Fees

Wording in this section has been modified to encourage more applicants to consult the available fee calculator which is linked on the WDEQ webpage for the Large Construction General Permit. Permit fee checks that come in with an incorrect amount must be returned and applications are significantly delayed waiting for a corrected check.

Part 6.3 was revised to reflect an upcoming increase in permit fees as approved by the legislature in 2020. The fee increase will take effect on July 1, 2020.

Part 7 – Effluent Limits

Part 7.4 was added to make more clear what minimum considerations should be when developing a SWPPP. These are only minimum considerations and some sites will require developers to consider additional factors.

A new paragraph 7.10 replaces parts 7.9 through 7.13. New part 7.10 reminds permittees that sediment control ponds and basins require a permit under WWQRR Chapter 11, section 3. Chapter 11 permits are administered under WDEQ Water & Waste Water Program. Pond/basin requirements from Chapter 11 were shared in the last two LCGPs, however, ponds and basins were still required to obtain a separate permit for those features. The Storm water program has determined that adding these requirements to the LCGP has not added value or saved effort. Part 7.10 will simply remind permittees of the permitting requirement and that a minimum maintenance standard for detention ponds is found in Appendix C of the LCGP.

A new Part was added as 7.12.7 under section addressing Soil Stabilization. Where temporary stabilization measures are not appropriate due to the character of the site (e.g., shallow bedrock or difficult topography) or weather (e.g., winter conditions), the permittee must ensure that adequate temporary erosion and sediment controls are in place.

A Part 7.17, addressing chemical sediment control, was added to the permit. At this time, there has been no known use of chemicals to remove sediment from storm water discharges from construction activities within the area regulated by this permit. These systems are more common in other states. However, the Division wants to be prepared should the activity begin here and have an opportunity to review any planned treatment system for efficacy and safety. This paragraph requires a permittee who wishes to employ a treatment system to provide detailed information regarding the need for such a treatment system. A permittee must also provide a description of staff training for those designing and employing the system, a complete list of chemicals to be used and storage methods, justification for the selection of the chemicals intended to be used, details of methodology and dosage, Material Safety Data Sheets (MSDSs), schematic drawings, copies of manufacturer's specifications, references to all regulations affecting the use of such chemicals and any additional information the Division requires to fully evaluate the proposal. Approval of such systems is not guaranteed and each application will be evaluated on a case-by-case basis.

Part 8 – Wyoming Sage-Grouse Executive Order

This is a new section summarizes how the WDEQ Storm Water Program has been coordinating with the Wyoming Game and Fish Department (WGFD) to implement the Governor's Sage Grouse Executive Order 2019-3 (SGOE) which protects Sage Grouse habitat and populations. Projects that are partially or wholly in Sage Grouse Core Area (SGCA) must comply with the SGEO and any additional stipulations provided by the WGFD. This Part

does not apply to projects that will not cause clearing, grading, or excavation within SGCA. The SGEO is a broad document that may have applicability to your project beyond the limited scope of this permit. It is the project sponsor's responsibility to verify their responsibilities under the SGEO that may be beyond the scope of this permit.

This section was modified to add protection of non-core sage grouse population areas under Executive Order 2019-3 and protection of Mule Deer and Antelope Migration Corridors under Executive Order 2020-1. For any project subject to one or both Executive Orders (EOs), the applicant must consult with the WGFD to ensure the proposed project is consistent with the relevant EO. A copy of the letter(s) of consistency must accompany the Notice of Intent when requesting new coverage under the LCGP. The Natural Resources and Energy Explorer (NREX) website is suggested as a useful tool for applicants needing to determine EO applicability.

Part 9 – Storm Water Pollution Prevention Plan

Part 9.1.4.2 updates when facilities renewing under this permit must update their existing facility SWPPPs. This paragraph only applies to those facilities that had coverage under the previous permit and are continuing that coverage under this permit.

Part 9.2.2.5 has been expanded to offer more guidance in how to describe the pre-construction vegetation and a very brief description of estimating canopy cover.

A new Part 9.2.2.6 has been added to require a description of the likely erodibility of the soil to be disturbed and of cut and fill materials to be utilized onsite. This information is important in the development of appropriate erosion and sediment control measures.

This section was removed and combined with Part 9.2.3.8. This paragraph now requires applicants to indicate known areas of steep slopes and/or erodible soils. The Storm Water Program recognizes that in many cases, such areas may not be known at time of application. As such areas are identified, they should be indicated on SWPPP maps and appropriate BMPs identified.

In Part 9.2.3.6, the phrase [map the] "Locations of all other structural and non-structural best management practices [BMPs]" was modified to remove the phrase "and non-structural" as non-structural BMPs are typically procedures and actions (such as spill prevention practices) that cannot be mapped.

A new Part 9.2.3.8 was added, subsequent paragraphs were renumbered accordingly. This new paragraph requires permittees to map areas to be disturbed where slopes will exceed 15%. Steeper slopes present higher risks for erosion potential. Identification of such areas will assist SWPPP developers in selecting appropriate BMPs. Noting such areas will also allow more focused reviews on potential problem areas by WDEQ permitting and compliance staff.

This section was combined with 9.2.2.6. It now requires identification of areas that are steep and/or have highly erodible soils. The minimum slope of 15% was removed as soil type and slope together along with other factors such as length of slope are important in determining the erodibility of a particular site. Operators are expected to use best professional judgement to identify areas that may be significantly prone to erosion and may require more robust erosion and sediment controls. Operators are not expected to need formal surveys or soils data for reasonable determinations.

Part 9.2.3.10 addresses the mapping of offsite support operations. "Show all points or areas where storm water will discharge from the construction site" was added as the first sentence. The addition was made to clarify that all discharge points/areas need to be located.

New Part 9.2.3.12 was added to require that all dewatering discharge points where storm water pumped from a construction site need to be added to the SWPPP map. The WDEQ understands that dewatering accumulated storm water may not be contemplated during initial planning phase for the project. Dewatering operations and discharge locations may be added to the SWPPP when dewatering becomes necessary.

Part 10 – Self Monitoring and Inspection Requirements

In Part 10.2.1.1 addressing the 14-day self-inspection schedule, the sentence allowing permittees to use National Weather Service weather station data from as far as 10 miles from the construction site has been removed. The following sentence replaces it, “Information from National Weather Service (NWS) stations must be representative of the construction site.” In many, if not most cases, a NWS station will have to be considerably closer to the construction site to be useful. This change was made to reflect the highly localized nature of most summer and early fall storm events. The WDEQ expects that most construction sites will need to utilize an onsite rain gauge for a more accurate representation of precipitation at the construction site.

Language was added to make it clear that alternative methods that give localized rainfall data, such as radar estimates, are acceptable.

A new Part 10.2.3 has been added. This paragraph clarifies to permittees that there may be areas within a construction site that need inspection more frequently than the minimum schedule identified in 10.2.1. Reasons for more frequent inspection include, but are not limited to, areas found in self inspections to need frequent BMP maintenance or repair, proximity to a receiving water, steep areas within a site, and highly erodible soils.

Part 11 – Standard Permit Conditions

In Parts 11.7.1 and 11.7.2.1, the term, Legally Responsible Person (LRP) has been added. In the past the program has used permittee contact as the equivalent of LRP. The Storm Water Program often receives NOIs and other forms and reports where the signatories do not appear to be eligible to sign as LRPs. The intent of the language change is to emphasize that only those positions that are described in 11.7.1 (or designated according to 11.7.2 for certain reports) are eligible signatories. The term, Legally Responsible Person, is also consistent with language used by the US Environmental Protection Agency and most state storm water programs. With many project operators and consultants working across state lines, the WDEQ hopes this change will add more clarity to signature eligibility.

Part 11.20, Inspection and Entry, has been deleted and replaced with a new paragraph 11.20, Access, and Part 11.21, Access Records. This change brings makes the LCGP consistent with the program’s other storm water permits, discharge permits, and current DEQ policy on access to facilities covered by agency permits. This paragraph clarifies that WDEQ personnel and their invitees must be allowed access to the permitted facility to inspect, collect data, take photographs, and any other necessary function to ensure permit compliance. Furthermore, when the facility is not owned by the operator, the permittee “...shall also secure and maintain from the landowner upon whose property the facility is located permission for Department of Environmental Quality personnel and their invitees to enter the premises...” Similarly, “If the facility cannot be directly accessed using public roads, the permittee shall also secure and maintain permission for Department of Environmental Quality personnel and their invitees to enter and cross all properties necessary to access the facility.” This requirement has been written into the LCGP Notice of Intent for several years. The current renewal allows the WDEQ to incorporate the same requirements directly into the permit. As such, this is not a new requirement, but is now spelled out in the permit, not just in the NOI.

Part 11.21 describes the specific written records required for compliance with Part 11.20. This language is the same as has been in the LCGP NOI for the last several years.

Appendix A – Class I Waters: No changes to this section.

Appendix B – Acronyms Used in This Document

Acronyms for Legally Responsible Person and Wyoming Game and Fish Department were added.

Appendix C – Pollution Control Guidelines: No changes to this section.

Effluent Limits

The permit does not establish numeric effluent limits. However, the permit does require that the quality of storm water discharges associated with construction activity reflect the best which is attainable through the proper implementation of all items in the facility SWPPP. Additionally, the control measures specified in the SWPPP shall be consistent with the narrative effluent limits found in Part 7 and ensure that storm water discharges from the facility do not cause a violation of state water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations.

Location of Covered Discharges

The permit applies to all areas within the State of Wyoming except areas within the Wind River Indian Reservation where the State does not have jurisdiction.

Expiration

The proposed general permit will expire August 1, 2025.

Drafted by:
Barb Sahl
April 24, 2020

C:\bsahl\Storm_Water\Construction\CGP_2020\LCGP-Final-Docs\LCGP2020_factsheet-final_v3.0.doc