

construction activity is defined per 40 CFR 122.26(b)(15)(i).

In developing the Phase II storm water regulations, EPA conducted an analysis of the potential impacts of the regulation on the National economy and also analyzed impacts on small businesses. These impacts focused on implementation of sediment and erosion control practices or best management practices to reduce pollutants commonly associated with construction storm water discharges. In performing these analyses, EPA considered affected industrial sectors, including the oil and gas industry. Initially, EPA determined that few, if any oil and gas exploration sites would be affected by Phase II and impacts on the accuracy of Phase II rule cost estimates were unlikely to be significant. Therefore, EPA did not include oil and gas exploration sites in the Final Draft of the Economic Analysis of the Phase II Final Rule. Since rule promulgation, EPA has become aware that close to 30,000 oil and gas sites may be affected by the Phase II storm water regulations.

On March 10, 2003 (68 FR 11325), EPA postponed the permit requirement for small oil and gas small construction activity from March 10, 2003, to March 10, 2005. During the two-year postponement, EPA plans to work with states, industry, and other entities to gather and evaluate data on the development and use of appropriate best management practices for the oil and gas industry.

B. Summary of Significant Changes From 1998 Construction General Permit

This permit replaces the previous Construction General Permits which were issued for a five-year term by various EPA Regions in February 1998 (63 FR 7858) and July 1998 (63 FR 36490). The organization and numbering of today's CGP has been revised slightly from the 1998 CGP to more clearly present permittee responsibilities. In addition, following is a list of significant changes included in the CGP as compared to the February 1998 CGP. These changes are discussed in more detail in the CGP fact sheet.

1. Change in Permit Areas Covered.
 - i. Additions.
 - a. Indian Country within the States of Michigan, Wisconsin, and Minnesota, Louisiana, Oklahoma, New Mexico, and Texas,
 - b. State of New Mexico,
 - c. Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC

Groups 13 and 46, and SIC Codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, and 09), and

d. Discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.

- ii. Deletions.
 - a. State of Maine,
 - b. Indian Country, including disputed areas, within the State of Maine, and
 - c. State of Arizona.

2. Permit coverage modified to include small construction activities (those disturbing one to five acres), and to provide waivers for small construction for low rainfall erosivity, total maximum daily loads (TMDLs), and equivalent analyses.

3. Uncontaminated excavation dewatering added as an allowable non-storm water discharge.

4. Restrictions and documentation requirements added for discharges to waters with TMDLs, and procedures included for addressing attainment of water quality standards.

5. State and county Endangered Species Act (ESA) appendix of Federally-listed or proposed species removed.

6. Discharge authorization procedures and NOI submission deadlines altered to accommodate new seven-day ESA reviews of NOIs by U.S. Fish & Wildlife Service and National Marine Fisheries Service, and to account for ongoing projects.

7. Information required on NOI form modified to require:

- i. Applicable permit number;
- ii. Internal Revenue Service Employer Identification Number;
- iii. Methodology for determining latitude and longitude;
- iv. Name of Indian reservation or affiliated Tribe;
- v. Address of SWPPP location (changed from optional to required);
- vi. Whether the discharge is consistent with the assumptions and requirements of applicable EPA approved or established TMDLs; and
- vii. The specific permit tracking number of an operator certifying under criterion F.

8. Language added to support the operator's ability to submit NOIs and NOTs using EPA's electronic NOI system when available.

9. Procedure clarified for operator to delineate on the SWPPP areas of the

project where no further requirements apply following earth-disturbing activities and stabilization.

10. Requirement to provide an estimate of the site's runoff coefficient for pre- and post-construction conditions removed.

11. Documentation requirements for ESA eligibility clarified.

12. Inspection provisions modified to include option for weekly site inspections rather than biweekly inspections with follow-up inspections after each rain event, and guidelines included for utility line installation, pipeline construction, and other linear construction activities.

13. Further clarification provided concerning stabilization requirements for project areas where construction has temporarily ceased.

14. Additional guidance and options provided for adjusting SWPPP to address applicable water quality standards after authorization.

15. Clarification added that coverage under an alternative NPDES permit qualifies as a basis for submitting an NOT.

16. Definitions added for the following terms:

- i. "Arid Areas";
- ii. "Eligible";
- iii. "Federal Facility";
- iv. "Indian Country";
- v. "Large Construction Activity";
- vi. "New Project";
- vii. "Ongoing Project";
- viii. "Permitting Authority";
- ix. "Project Area";
- x. "Receiving Water";
- xi. "Semi-Arid Areas";
- xii. "Site";
- xiii. "Small Construction Activity";
- xiv. "Storm Water Discharge-Related Activity";
- xv. "Total Maximum Daily Load" or "TMDL"; and
- xvi. "Wetland".

17. Standard conditions revised consistent with 40 CFR 122.41.

C. Summary of Terms and Conditions of Final General Permit

1. Discharges Covered

Operators of large and small construction activities within the areas listed below may be eligible to obtain coverage under this permit for allowable storm water and non-storm water discharges:

Region 1: The State of New Hampshire; Indian Country in the States of Rhode Island and Connecticut; and Federal facilities in Vermont. (State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be