



Illinois Environmental Protection Agency

## General Storm Water NPDES Permit For Construction Activities



### Frequently Asked Questions Regarding Changes to Sites/Projects after a Notice of Intent has been Filed

#### Background

Owners/Operators of construction sites need to have National Pollutant Discharge Elimination System (NPDES) permit coverage for discharges of storm water from construction sites where one or more acres of land is disturbed.<sup>1</sup> Many permittees in Illinois obtain permit coverage for their construction projects under the State's General Storm Water NPDES Permit for Construction Activities. In order for storm water discharges from construction sites to be authorized under this General Permit, the owner must submit a Notice of Intent (NOI) in accordance with the requirements of the General Permit. Permittees must develop and implement a Storm Water Pollution Prevention Plan (SWPPP) to effectively manage the discharge of pollutants from the site. The full General Permit, and related information about the requirements for construction sites, is available from Illinois EPA at this web address: <http://www.epa.state.il.us/water/permits/storm-water/construction.html>

#### What is required if the operator(s) changes before the project is completed?

A new NOI needs to be filed. The General Permit requires:

“Where a new operator (contractor) is selected after the submittal of an NOI under Part II, a new Notice of Intent (NOI) must be submitted by the owner in accordance with Part II” of the General Permit.

The new operator must either develop a new SWPPP or amend the SWPPP to identify any new contractor and/or subcontractor that will implement the SWPPP. All contractors and subcontractors identified in the SWPPP must certify the SWPPP as required in the General Permit.

#### What is required if operational control changes, but only for a portion of the site?

This can happen, for example, if part of a site is sold and a new owner/operator will carry out construction activities on the parcel(s) sold. In these instances, the new owner must:

- Submit an NOI; and
- Develop and implement a SWPPP for the portion of the site for which the new owner will be responsible (or the SWPPP of the previous owner must be revised in accordance with the General Permit if it is still applicable -- revisions are likely to be necessary to update the explanations of the operators [contractors] and subcontractors, update the certifications, and update the explanation of the BMPs). A new operator may not rely on another operator's BMPs (e.g., a sediment basin or inlet protection) that are not located on the new operator's property unless the new operator has an agreement with the other operator and has included the BMPs in the new/revised SWPPP.

The parcel(s) sold/transferred from the original site owner/operator, including those less than 1 acre, are required to maintain permit coverage until they are fully stabilized because they are part of a larger common plan of development. The owner/operator of the original site should update the SWPPP to clearly indicate the transfer of lots to a new owner/operator.

**What is required if there will be changes to the way stormwater discharges are managed (e.g., the drainage configuration will be changed from the original plans)?**

The owner/operator must update the SWPPP for the site. The General Permit requires:

"The Permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the Waters of the State and which has not otherwise been addressed in the plan...."

**What is required if there will be changes to the roles and responsibilities of owners, contractors, or subcontractors?**

If there will be changes to the roles and responsibilities of owners, contractors, or subcontractors that affect the way stormwater discharges are managed, the owner/operator must update the SWPPP for the site. The General Permit requires:

"...the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan. "

**What is required if there is a change to the duly authorized representative?**

If there is a change to the duly authorized representative (i.e., a person authorized to sign and submit reports required under the General Permit and other information requested by the Agency – see Section VII.G. of the Permit), a new authorization must be signed and submitted to the Agency. The General Permit requires:

"If an authorization under paragraph I.C (Authorization) is no longer accurate because a different individual or position has responsibility for the overall operation of the construction site, a new authorization satisfying the requirements of paragraph I.C must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative."

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<sup>1</sup> All sites where one or more acres of land will be disturbed need to have NPDES permit coverage for storm water discharges from the site. Site activities disturbing less than 1 acre also must have NPDES permit coverage if they are part of a larger common plan of development or sale (which will involve disturbance of one or more acres of land) or if they are designated by the State. A "larger common plan of development or sale" is a contiguous area where multiple separate construction activities may be taking place at different times on different schedules under one plan.