

Ohio Environmental Protection Agency

Fact Sheet for

National Pollutant Discharge Elimination System (NPDES)

General Permit Renewal for Discharges of Stormwater Associated with
Construction Activity (OHC000006)

I. Background

Several pollutants are associated with discharges from construction sites, including: sediment, solid and sanitary wastes, fertilizer, pesticides, oil and grease, concrete truck washout, construction chemicals, and debris. Sediment is the greatest pollutant of concern amongst these. During a short period of time, construction sites can contribute more sediment to streams than can be deposited naturally during several years. The resulting siltation, and the contribution of other pollutants from construction sites and the new land uses, can cause physical, chemical and biological harm to surface waters. For example, excessive sediment can quickly fill rivers and lakes, requiring dredging and destroying aquatic habitat.

The federal Water Pollution Control Act (also referred to as the Clean Water Act [CWA]), which was enacted in 1972, provides that the discharge of pollutants to waters of the United States from any point source is unlawful unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act amendments of 1987 (referred to as the Water Quality Act of 1987) explicitly required the U.S. Environmental Protection Agency (EPA) to adopt regulations to require NPDES permits of stormwater dischargers associated with construction activities. Construction sites disturbing one or more acres of land have been required to obtain NPDES permit coverage since March 10, 2003.

This fact sheet addresses the sixth generation of the NPDES Construction Stormwater general permit (Permit No. OHC000006).

II. Description of General Permit Coverage and Type of Discharges

The permit would authorize stormwater discharges from construction activity disturbing one or more acres and be applicable statewide. Also, the permit would authorize some discharges that are not entirely considered construction stormwater (such as trench dewatering), as well as stormwater discharges associated with on-site concrete and asphalt batch plants. Consistent with OHC000005, OHC000006 would include the specific conditions currently applicable to the Big Darby Creek watershed and Portions of the Olentangy River watershed as Appendices.

III. Application and Termination Procedures

New Dischargers: To obtain initial coverage, a discharger needs to develop a stormwater pollution prevention plan (SWP3) and submit a complete Notice of Intent (NOI) form and appropriate application fee prior to the commencement of construction activity. These shall occur at least 45 days prior for sites within the Big Darby Creek and portions of the Olentangy River watersheds (including attaching SWP3 to NOI); and at least 21 days elsewhere.

Existing Dischargers: Existing permittees having coverage under the previous generation of this general permit (OHC000005), shall have continuing coverage under OHC000006 with the submittal of a timely renewal application. Within 180 days from the effective date of this permit, existing permittees shall submit a completed renewal application expressing their intent for continued coverage if needed. In accordance with Ohio Administrative Code (OAC) 3745-38-02(E)(2)(a)(ii), a renewal application fee will not apply to existing permittees having general permit coverage issued on or after April 22, 2022. Existing permit coverage will be terminated if Ohio EPA does not receive the renewal application within this 180-day period.

Permit Expiration: The general permit renewal will expire five years after the effective date.

Notice of Termination: Permittees must submit a Notice of Termination (NOT) form within 45 days of completing all permit requirements in accordance with Part IV of this draft general permit renewal. To terminate coverage, a discharger needs to complete and submit the NOT application using the NOT electronic application form available through the Ohio EPA eBusiness Center at ebiz.epa.ohio.gov. For guidance, please see the following <https://epa.ohio.gov/divisions-and-offices/surface-water/permitting/electronic-business-services-sub/streams>

IV. Description of Permit Conditions

In comparison to the current NPDES statewide construction stormwater general permit (OHC000005), this draft general permit renewal (OHC000006) contains the following noteworthy changes:

- The word “storm water” has been changed to “stormwater” throughout the permit to be consistent with Ohio EPA’s current Style Manual.
- Renewal Application (Part I.F.5). Existing permittees having coverage under the previous generation of this general permit (OHC000005), shall have continuing coverage under OHC000006 with the submittal of a timely renewal application. Within 180 days from the effective date of this permit, existing permittees shall submit a completed renewal application expressing their intent for continued coverage if needed. In accordance with Ohio Administrative Code (OAC) 3745-38-02(E)(2)(a)(ii), a renewal application fee will not apply to existing permittees having general permit coverage issued on or after April 22, 2022. Existing permit coverage will be terminated if Ohio EPA does not receive the renewal application within this 180-day period.
- Post-Construction Requirements (Part III.G.2.e). The following draft changes have been included to this Part of the draft general permit renewal:
 - Corrections and terminology modifications that do not alter the intent of the current permit.
 - New requirement that Table 4b practices (infiltration practices) use field test infiltration rates. This requirement will assure infiltration BMPs perform properly.
 - Added language to clarify that pedestrian trails may also use the BMP design guidance in ODOT’s L&D manual (transportation projects).

- Revisions to the Post-Construction requirements for redevelopment projects to more clearly state the instructions. This revision was identified as needed during early stakeholder outreach.
- New language to ensure that redevelopment of properties originally developed under previous generations of this general permit (i.e., that include a water quality volume treatment) cannot backslide to a reduced level of treatment. This revision was identified as being needed during early stakeholder outreach.
- Restructuring the Alternative Post-Construction BMP language to 1) allow both pretreatment and primary practices to properly reference the BMP testing criteria, 2) address changes to Washington TAPE and potentially STEPP, and 3) clarify the criteria.
- Electronic Recordkeeping (Part III.G.2.i). Ohio EPA has received requests on what requirements exist to maintain inspection documents electronically versus in paper format. Ohio EPA included the electronic recordkeeping requirement found within USEPA's Construction Stormwater general permit in this draft general permit renewal. An electronic recordkeeping system "will generally ensure that records created and/or maintained are readable and legally dependable with no less evidentiary value than their paper equivalent. The following are attributes of an electronic recordkeeping system that will ensure readability and legal dependability:
 - a. From any other point of access to the electronic recordkeeping system, electronic records, including signatures, certifications, and alterations, can be: (i) displayed to OEPA, including its authorized representatives, in a format that can be read in a manner similar to a paper record and that associates data with field names or other labels that give the data contained in the record meaning and context (not solely in a computer code or data string), (ii) easily copied for OEPA, including its authorized representatives, to review and access at OEPA staff computers using non-proprietary software, and (iii) can easily be printed to paper form;
 - b. Associated metadata in their native format is preserved and available upon request;
 - c. Electronic records cannot be modified without detection and are preserved in a manner that cannot be altered once created. For example, any changes to an electronic record are automatically and indelibly recorded in a logically associated (i.e., cryptographically bound) audit trail that records each change made without obscuring the data to which the modification is made or its antecedents. If audit trail technology is not feasible, iterative copies of electronic documents may be kept. Having a system to detect document modifications is important for final versions of documents kept for compliance purposes and does not have to include "draft" documents that are still undergoing changes;
 - d. The electronic recordkeeping system identifies any person who creates, certifies, or modifies an electronic record;
 - e. Originals of any electronic record are immediately and automatically transferred to and held at a single location by a custodian of records who is not an author, certifier, or modifier of the electronic records. The original electronic record is secured in a fashion that protects it from tampering or destruction;
 - f. The electronic recordkeeping system identifies: (i) the name, address, telephone number and email address for the custodian of records described in "d" above; and (ii) the address and owner of the location where the original electronic record is located.

The electronic records and their associated metadata remain available, and the operator can demonstrate that the records have not been changed in any modification of the recordkeeping system or migration to a successor recordkeeping system;

g. Clear instructions guide users of the electronic recordkeeping system in proper use of the system and unambiguously communicate the legal significance of using an electronic signature device; and computer systems (including hardware and software), controls, and attendant documentation that are part of the electronic recordkeeping system are readily available for, and subject to, agency inspection.

OEPA will generally consider electronic records to be accessible enough to be considered to be stored at the site when the operator is able to, immediately, upon request, provide to government officials or authorized representatives:

- a. Paper or electronic copies of requested records required to be kept; and
- b. Electronic access, using hardware and software available at the site, to required permit records via electronic storage at the site, or via direct access to an electronic system of records stored elsewhere, including legacy systems that have been migrated to a current system, provided that the location of the original record is within the United States.”

- Notice of Termination Requirements (Part IV.A and Part IV.B.1). Language was included to clarify that general permit coverage is not terminated until a Notice of Termination (NOT) is submitted and permit coverage is terminated by Ohio EPA.
- Big Darby Creek Watershed Appendix (Appendix A). The following draft changes have been included to this Part of the draft general permit renewal:
 - Correction of a transcription error regarding sediment settling pond sizing, as the increased volume is required for the dewatering zone, not the sediment storage zone. This addresses comments that requested clarification during many SWP3 reviews.
 - Added an alternate discharge performance standard of 50 Nephelometric Turbidity Units (NTUs) for monitoring sediment settling ponds to provide an additional testing option that was requested during early stakeholder outreach.
 - Clarified that only jurisdictional ephemeral streams are subject to riparian setback requirements as a result of House Bill 175.
 - Restructured Tables A-1 and A-2 to clarify the distinction between specific land covers and general land uses for the purposes of calculating pre-development and post-development groundwater recharge.
 - Updated links to the Ohio EPA Stormwater Program webpage that were broken after the recent website redesign.
- Portions of the Olentangy River Watershed Appendix (Appendix B). The following draft changes have been included to this Part of the draft general permit renewal:
 - Clarified that only jurisdictional ephemeral streams are subject to riparian setback requirements as a result of House Bill 175.
 - Updated links to the Ohio EPA Stormwater Program webpage that were broken after the recent website redesign.

V. Procedures for the Formulation of Final Determinations

This general permit shall be issued as a final action unless the director revises the draft after consideration of the record of a public hearing or written comments, or upon disapproval by the Administrator of the U.S. Environmental Protection Agency.

Interested persons are invited to submit written comments on this draft general permit renewal by email to epa.dswcomments@epa.ohio.gov or by mail to: Ohio EPA, Division of Surface Water-Permits Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 by January 30, 2023.

All comments should include “**OHC000006**” in the subject line for email or next to the Ohio EPA address on the envelope and on each page of mailed comments. All comments received no later than January 30, 2023 will be considered.

VI. Additional Information

For additional information regarding this draft general permit renewal, please contact one of the following:

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