2027 NPDES General Permit for Stormwater Discharges From Construction Activities: U.S. Environmental Protection Agency Proposed Permit Renewal



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The United States Environmental Protection Agency ("EPA") published an August 3rd Federal Register notice for its proposed 2027 Clean Water Act National Pollutant Discharge Elimination System ("NPDES") General Permit for Stormwater Discharges From Construction Activities ("Construction Permit"). See 91 Fed. Reg. 48862.

The Construction Permit is a general permit (as opposed to an individual permit) utilized by EPA to address stormwater discharges associated with certain construction activities involving clearing, excavating, and grading that disturbs the land.

The 2027 EPA Construction Permit will be utilized in states that do not have primacy for the Clean Water Act program. Arkansas has been authorized to administer the NPDES construction stormwater permitting program for many years. As a result, the Construction Permit, when finalized, will not be applicable in this state. Nevertheless, states with primacy often take into account to some extent EPA's choices (i.e., in terms of permit conditions and limitations) in revising or reissuing their general stormwater permits.

The Clean Water Act permit is required for stormwater discharges from any construction activities disturbing:

- One or more acres of land.
- Less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres.

Construction activities include earth-disturbing activities that involve clearing, grading, and excavating land and other construction related activities that could generate pollutants.

EPA identifies the following as proposed permit changes:

- Changes to specific water quality-based requirements to address the United States Supreme Court's decision in *City and County of San Francisco v. EPA*, No. 23–753 (S. Ct. Mar. 4, 2025) (the federal agency describes this as a finding that the Clean Water Act does not authorize what the Court referred to as ''end-result'' permit requirements that do not spell out what a permittee must do or

refrain from doing but instead make a permittee responsible for the quality of the water in the body of water into which the permittee discharges pollutants).

- Removing a narrative limitation that required discharges to be ‘‘controlled as necessary to meet applicable water quality standards’’ and replacing it with a set of more specific narrative limits that are indicators of water quality problems in the discharge.
- Modernizing permitting through electronic exchange of site information (proposes to require the operator to include as part of the Notice of Intent either a copy of the full Stormwater Pollution Prevention Plans (“SWPPPs”), a Uniform Resource Locator where a copy of the SWPPP can be viewed, or a copy of the SWPPP site map and the signed certification required by Part 7.2.10).
- Updates to reflect best industry practice (EPA proposes to require for those operators installing sediment basin stabilization measures to be implemented prior to first directing stormwater to the sediment basin to ensure that soil from the basin itself does not become a source of sediment discharge).
- Permit streamlining.
- Perimeter controls are only needed in specific areas of the site.
- Clarifies stabilization deadlines for sites in arid, semi-arid, or drought-stricken areas.
- Provide flexibility for stabilization during sudden snow or frozen conditions.
- Request public feedback on reducing monitoring frequency for certain dewatering discharges.
- Changes in formatting, correcting errors, and updating references.

A copy of the Federal Register notice can be found here.