

**Agricultural Pollutant Discharge Elimination System (AgPDES)
General Permit for Discharges from Construction Activities
(OKR140000)**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, Oklahoma Agriculture Pollutant Discharge Elimination System Act, § 2-2A-1 et seq. and Oklahoma Agriculture Environmental Permitting Act, § 2-2A-21 et seq., "operators" of construction activities (defined in Part 1.1.a and Appendix A) that meet the requirements of Part 1.1 of this Agriculture Pollutant Discharge Elimination System (AgPDES) general permit, are authorized to discharge pollutants in accordance with the effluent limitations and conditions set forth herein. Permit coverage is required from the "commencement of earth-disturbing activities" (see Appendix A) until "final stabilization" (see Part 2.2).

This permit becomes effective on November 21, 2017.

This permit and the authorization to discharge expire at midnight, November 20, 2022.

Issued on November 20, 2017.



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1. HOW TO OBTAIN PERMIT COVERAGE UNDER THE CONSTRUCTION GENERAL PERMIT (CGP)

To be covered under this permit, you must meet the eligibility conditions and follow the requirements for applying for permit coverage in this Part.

1.1. ELIGIBILITY CONDITIONS REQUIRED OF ALL CONSTRUCTION ACTIVITIES

Only those construction activities that meet all of the following eligibility conditions may be covered under this permit:

- a. You are an “operator” of the construction activity for which discharges will be covered under this permit. For the purposes of this permit, an “operator” is any party associated with a construction activity that meets either of the following two criteria:
 - i. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
 - ii. The party has day-to-day operational control of those activities at a construction activity that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit). Subcontractors generally are not considered operators for the purposes of this permit.

Where there are multiple operators associated with the same construction activity, all operators are required to obtain permit coverage. The following applies in these situations:

- iii. If one operator has control over plans and specifications and a different operator has control over construction activities at the construction activity site, they may divide responsibility for compliance with the terms of this permit as long as they develop a group SWPPP (see Part 7.1.1), which documents which operator has responsibility for each requirement of the permit.
 - iv. If an operator only has operational control over a portion of a larger construction activity (e.g., one of four homebuilders in a subdivision), the operator is responsible for compliance with all applicable effluent limits, terms, and conditions of this permit as it relates to the construction activities on their portion of the construction site, including protection of endangered species, critical habitat, and historic properties, and implementation of control measures described in the SWPPP in the areas under their control.
 - v. You must ensure either directly or through coordination with other permittees, that your activities do not render another party’s pollutant discharge controls ineffective.
 - vi. If the operator of a “construction support activity” (see Part 1.3.c) is different than the operator of the main construction site, that operator is also required to obtain permit coverage.
- b. Your construction activity:
 - i. Will disturb 1 or more acres of land, or will disturb less than 1 acre of land but is part of a larger common plan of development or sale that will ultimately disturb 1 or more acres of land; or
 - ii. Your construction activity’s discharges have been designated by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) as needing a permit under § 122.26(a)(1)(v) or § 122.26(b)(15)(ii);
 - c. Your construction activity is located in an area where ODAFF is the permitting authority. ODAFF is the permitting authority in areas that are not under the authority of the Oklahoma Department of Environmental Quality (ODEQ), including construction activities associated with oil and gas exploration, drilling, operations, and pipelines (including 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, 09).

- d. Excluding construction activities currently covered by the 2012 CGP that are in the process of obtaining coverage under this permit as well as construction sites that are in the process of being transferred to another owner and/or operator, discharges from your construction activity may not be:
 - i. Already covered by a different NPDES permit for the same discharge, other than this general permit; or
 - ii. In the process of having coverage under a different NPDES permit for the same discharge denied, terminated, or revoked.
 - a. Notwithstanding a construction activity being made ineligible for coverage under this permit because it falls under the description of Parts 1.1.d.i or 1.1.d.ii, above, ODAFF may waive the applicable requirement after specific review if it determines that coverage under this permit is appropriate.
- e. You are able to demonstrate that you meet one of the criteria listed in Appendix D with respect to the protection of species that are federally-listed as endangered or threatened under the Endangered Species Act (ESA) or federally-designated critical habitat;
- f. You have completed the screening process in Appendix E relating to the protection of historic properties and places; and

1.2. ELIGIBILITY CONDITIONS THAT APPLY DEPENDING ON TYPE OF CONSTRUCTION ACTIVITY

You must also satisfy the conditions in Parts 1.2.1 through 1.2.4 in order to obtain coverage under this permit.

1.2.1. Eligibility for Emergency-Related Construction Activities

If you are conducting earth-disturbing construction activities in response to a public emergency (*e.g., natural disaster, widespread disruption in essential public services*), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, you are authorized to discharge on the condition that a complete and accurate NOI is submitted within 30 calendar days after commencing earth-disturbing construction activities (see Table 1) establishing that you are eligible under this permit. You are also required to provide documentation in your SWPPP to substantiate the occurrence of the public emergency.

1.2.2. Water Quality Standards – Eligibility for New Sources

If you are a “new source” (as defined in Appendix A), you are not eligible for coverage under this permit for discharges that ODAFF, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, ODAFF may notify you that an individual permit application is necessary in accordance with Part 1.4.5. However, ODAFF may authorize your coverage under this permit after you have included appropriate controls and implementation procedures designed to bring your discharge into compliance with water quality standards. In the absence of information demonstrating otherwise, ODAFF expects that compliance with the stormwater control requirements of this permit, including the requirements applicable to such discharges in Part 3.2, will result in discharges that will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard.

1.2.3. Discharging to Waters with High Water Quality – Eligibility for New Sources

If you are a “new source” (as defined in Appendix A), you are eligible to discharge to an Outstanding Resource Water (ORW), High Quality Water (HQW), or Sensitive Public and Private Water Supply (SWS) water only if your discharge will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, ODAFF expects that compliance with the stormwater control requirements of this permit, including the requirements applicable to such discharges in Part 3.3.2, will result in discharges that will not lower the water quality of the applicable water. See a list of ORW, HQW, and

SWS waters in Appendix A of Oklahoma’s Water Quality Standards (OAC 785:45). For discharges that enter a storm sewer system prior to discharge, the first surface water to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

1.2.4. Use of Cationic Treatment Chemicals

If you plan to use cationic treatment chemicals (as defined in Appendix A), you are ineligible for coverage under this permit, unless you notify ODAFF in advance and are authorized coverage under this permit after you have included appropriate controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards.

1.3. Types of Discharges Authorized Under the CGP

The following is a list of discharges that are allowed under the permit provided that appropriate stormwater controls are designed, installed, and maintained:

- a. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity under 40 CFR § 122.26(b)(14) or § 122.26(b)(15)(i);
- b. Stormwater discharges designated by ODAFF as needing a permit under 40 CFR § 122.26(a)(1)(v) or § 122.26(b)(15)(ii);
- c. Stormwater discharges from construction support activities (*e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas*) provided:
 - i. The construction support activity is directly related to the construction site required to have permit coverage for stormwater discharges;
 - ii. The construction support activity is not a commercial operation, nor does it serve multiple unrelated construction activities;
 - iii. The construction support activity does not continue to operate beyond the completion of the construction activity at the construction activity it supports; and
 - iv. Stormwater controls are implemented in accordance with Part 2 and Part 3, for discharges from the construction support activity areas.
- d. The following non-stormwater discharges from your construction activity, provided that, with the exception of water used to control dust and to irrigate areas to be vegetatively stabilized, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Part 2:
 - i. Discharges from emergency fire-fighting activities;
 - ii. Fire hydrant flushings;
 - iii. Landscape irrigation;
 - iv. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
 - v. Water used to control dust;
 - vi. Potable water including uncontaminated water line flushings;
 - vii. Routine external building washdown that does not use soaps, solvents, or detergents;
 - viii. Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where soaps, solvents, or detergents are not used. You are prohibited from directing pavement wash waters directly into any surface water, storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;

- ix. Uncontaminated air conditioning or compressor condensate;
 - x. Uncontaminated, non-turbid discharges of ground water or spring water;
 - xi. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and
 - xii. Construction dewatering water that has been treated by an appropriate control under Part 2.1.3.4; and
- e. Discharges of stormwater listed above in Parts a, b, and c, or authorized non-stormwater discharges in Part d above, commingled with a discharge authorized by a different AgPDES or Oklahoma Pollutant Discharge Elimination System (OPDES) permit and/or a discharge that does not require AgPDES or OPDES permit authorization.

1.4. SUBMITTING YOUR NOTICE OF INTENT (NOI)

To be covered under this permit, you must submit to ODAFF a complete and accurate NOI prior to commencing construction activities. The NOI certifies to ODAFF that you are eligible for coverage according to Part 1.1 and 1.2, and provides information on your construction operation and discharge.

All “operators” (as defined in Appendix A) associated with your construction activity, who meet the Part 1.1 eligibility requirements, and who seek coverage under this permit, are required to submit an NOI.

There are two exceptions to the requirement to submit the NOI prior to the commencement of construction activities: (1) for emergency-related construction activities, and (2) for new construction activities scheduled to commence construction activities within the first 30 calendar days of this permit being issued. For these two types of construction activities, the NOI must be submitted within 30 calendar days after the commencement of earth- disturbing activities (see Part 1.4.2).

You must complete the development of a Stormwater Pollution Prevention Plan (SWPPP) consistent with Part 7 prior to submitting your NOI for coverage under this permit.

1.4.1. How to Submit Your NOI

If submitting the NOI prior to December 21, 2020, the CAFO operator must prepare and submit the NOI using ODAFF form AEMS093 available on ODAFF’s website (<http://www.ag.ok.gov/aems/agpdes.htm>). If submitting the NOI on or after December 21, 2020, the operator must prepare and submit the NOI using ODAFF’s electronic Notice of Intent System (eNOI) on ODAFF’s website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the operator has obtained a waiver from the requirements to use eNOI for submission of the NOI. Operators waived from the requirement to use eNOI for NOI submission must certify on the paper NOI submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper Notice of Intent form and provide documentation of reasoning used for this determination. Late NOIs will be accepted, but authorization to discharge will not be retroactive.

1.4.2. Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage

Table 1 provides the deadlines for submitting your NOI and your official start date of permit coverage, which differ depending on when you commence construction activities. The following terms are used in Table 1 to establish NOI deadlines:

- a. New construction activity – a construction activity that commences construction activities on or after the date of this permit being issued.
- b. Existing construction activity – a construction activity that commenced construction activities prior to the date of this permit being issued.
- c. New operator of a new or existing construction activity – an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction activity.

Table 1 NOI Submittal Deadlines and Official Start Date for Permit Coverage.

Type of Construction Activity	Deadlines for Operators to Submit NOI	Official Start Date for Permit Coverage
New construction activity	<p>You must submit your NOI at least 30 calendar days prior to commencing earth-disturbing activities.</p> <p><i>Exception:</i> If your construction activity qualifies as an “emergency-related construction activity” under Part 1.2.1, you must submit your NOI by no later than 30 calendar days after commencing earth-disturbing activities.</p> <p><i>Exception:</i> If you are scheduled to commence construction activities within the first 30 days of this permit being issued, you must submit your NOI by no later than 30 calendar days after commencing earth-disturbing activities.</p>	<p>Permit coverage begins once ODAFF has reviewed and approved your NOI. The permittee will be notified of permit coverage by an authorization letter from ODAFF Agricultural Environmental Management Services (AEMS) division.</p> <p><i>Exception:</i> If your construction activity qualifies as an “emergency-related construction activity” under Part 1.2.1, you are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered after ODAFF has reviewed your NOI and provided an authorization letter. ODAFF will review “emergency-related construction activity” NOIs within 30 days of receipt of the NOI.</p> <p><i>Exception:</i> If you are scheduled to commence construction activities within the first 30 calendar days of this permit being issued, you are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered after ODAFF has reviewed your NOI and provided an</p>
Existing construction activity	<p>You must submit your NOI by no later than 30 calendar days after this permit has been issued. However, if you have not previously obtained coverage under an NPDES permit, you must submit your NOI immediately.</p>	<p>You are considered covered under this permit after ODAFF has reviewed your NOI and provided an authorization letter. If you are currently covered under the 2012 CGP, the coverage continues until your coverage under this permit begins, provided you have submitted an NOI by the deadline.</p>
New operator of a new or existing construction activity	<p>You must submit your NOI at least 14 calendar days before the date the transfer of ownership and/or operation to the new operator will take place.</p>	<p>You are considered covered under this permit after ODAFF has reviewed your NOI and provided an authorization letter.</p>

- d. If you have missed the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the Clean Water Act until they are covered by this or a different NPDES permit. ODAFF may take enforcement action for any unpermitted discharges that occur between the commencement of earth-disturbing activities and discharge authorization.

- e. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage.

1.4.3. Your Official End Date of Permit Coverage

Once covered under this permit, your coverage will last until the date that:

- You terminate permit coverage consistent with Part 8; or
- Your discharges are permitted under a different NPDES permit or a reissued or replacement version of this permit after expiring on November 20, 2022; or
- For existing construction activities that continue after this permit has expired, the deadline has passed for the submission of an NOI for coverage under a reissued or replacement version of this permit and you have failed to submit an NOI by the required deadline.

1.4.4. Continuation of this Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 40 CFR § 122.6 and remain in force and effect for discharges that were covered prior to expiration. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by this permit until the earliest of:

- Your authorization for coverage under a reissued or replacement version of this permit following your timely submittal of a complete and accurate NOI requesting coverage under the new permit (if you fail to submit a timely NOI for coverage under the reissued or replacement permit, your coverage will terminate on the date that the NOI was due); or
- Your submittal of a Notice of Termination; or
- Issuance or denial of an individual permit for the construction activity's discharges; or
- A final permit decision by ODAFF not to reissue a general permit, at which time ODAFF will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

ODAFF reserves the right to modify or revoke and reissue this permit under 40 CFR § 122.62 and 63, in which case you will be notified of any relevant changes or procedures to which you may be subject.

1.4.5. Procedures for Denial of Coverage

Following your submittal of a complete and accurate NOI, you may be notified in writing by ODAFF that you are not covered, and that you must either apply for and/or obtain coverage under an individual AgPDES permit or an alternate general AgPDES permit. This notification will include a brief statement of the reasons for this decision and will provide application information. Any interested person may request that ODAFF consider requiring an individual permit under this paragraph.

If you are already a permittee with coverage under this permit, the notice will set a deadline to file the permit application, and will include a statement that on the effective date of the individual AgPDES permit or alternate general AgPDES permit, as it applies to you, coverage under this general permit will terminate. ODAFF may grant additional time to submit the application if you request it. If you are covered under this permit and fail to submit an individual AgPDES permit application or an NOI for an alternate general AgPDES permit as required by ODAFF, then the applicability of this permit to you is terminated at the end of the day specified by ODAFF as the deadline for application submittal. ODAFF may take appropriate enforcement action for any unpermitted discharge. If you submit a timely permit application, then when an individual AgPDES permit is issued to you or you are provided with coverage under an alternate general AgPDES permit, your coverage under this permit is terminated on the effective date of the individual permit or date of coverage under the alternate general permit.

1.5. REQUIREMENT TO POST A NOTICE OF YOUR PERMIT COVERAGE

You must post a sign or other notice conspicuously at a safe, publicly accessible location in close proximity to the construction activity site. At a minimum, the notice must include the AgPDES Permit tracking number and a contact name and phone number for obtaining additional construction activity information. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way.

2. EFFLUENT LIMITATIONS APPLICABLE TO ALL DISCHARGES FROM CONSTRUCTION SITES

You are required to comply with the following effluent limitations in this Part for discharges from your site and/or from construction support activities (see Part 1.3(c)).

Part 2 includes the following types of requirements:

- Erosion and Sediment Control Requirements (Part 2.1)
- Stabilization Requirements (Part 2.2)
- Pollution Prevention Requirements (Part 2.3)

2.1. EROSION AND SEDIMENT CONTROL REQUIREMENTS

You must design, install, and maintain effective erosion and sediment controls that minimize the discharge of pollutants from earth-disturbing activities. To meet this requirement, you must comply with the following provisions.

2.1.1. General Requirements Applicable to All Construction Sites

2.1.1.1 *Area of Disturbance*

You are required to minimize the amount of soil exposed during construction activities. You are also subject to the deadlines for temporarily and/or permanently stabilizing exposed portions of your site pursuant to Part 2.2.

2.1.1.2 *Design Requirements*

- a. You must address for the following factors in designing your stormwater controls:
 - i. The expected amount, frequency, intensity, and duration of precipitation;
 - ii. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. If any stormwater flow will be channelized at your site, you must design stormwater controls to control both peak flowrates and total stormwater volume to minimize scour at outlets and to minimize channel and streambank erosion and scour; and
 - iii. The soil characteristics, including the range of soil particle sizes expected to be present on the site.
- b. You must direct discharges from your stormwater controls to vegetated areas of your site to increase sediment removal and maximize stormwater infiltration to reduce pollutant discharges, including any natural buffers established under Part 2.1.2.1, unless infeasible. Use velocity dissipation devices if necessary to prevent erosion when directing stormwater to vegetated areas.

2.1.1.3 *Installation Requirements*

- a. **Complete installation of stormwater controls by the time each phase of earth-disturbance has begun, unless infeasible.**

By the time earth-disturbing activities in any given portion of your site have begun you must install and make operational any down gradient sediment controls (*e.g., buffers or equivalent sediment controls, perimeter controls, exit point controls, storm drain inlet protection*) that control discharges from the initial site clearing, grading, excavating, and other land-disturbing activities.

Following the installation of these initial controls, all other stormwater controls planned for this portion of your site and described in your SWPPP must be installed prior to subsequent earth-disturbing activities.

The requirement to install stormwater controls prior to earth-disturbance for each phase of the construction activity does not apply to the earth disturbance associated with the actual installation of these controls.

b. Use good engineering practices and follow manufacturer’s specifications

You must install all stormwater controls in accordance with good engineering practices, including applicable design specifications.

Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in your SWPPP.

2.1.1.4 Maintenance Requirements

- a. You must ensure that all erosion and sediment controls required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.
- b. You must inspect all erosion and sediment controls in accordance with the applicable requirements in Part 4.1, and document your findings in accordance with Part 4.1.7. If you find a problem (*e.g., erosion and sediment controls need to be replaced, repaired, or maintained*), you must make the necessary repairs or modifications in accordance with the following schedule:
 - i. Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next work day, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance.
 - ii. When installation of a new erosion or sediment control or a significant repair is needed, you must install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery where feasible. If it is infeasible to complete the installation or repair within 7 calendar days, you must document in your records why it is infeasible to complete the installation or repair within the 7-day timeframe and document your schedule for installing the stormwater control(s) and making it operational as soon as practicable after the 7-day timeframe. Where these actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 7 calendar days of completing this work.

2.1.2. Erosion and Sediment Control Requirements Applicable to All Sites

2.1.2.1 Provide Natural Buffers or Equivalent Sediment Controls

(These requirements only apply when a surface water is located within 50 feet of your construction activity’s earth disturbances).

ODAFF does not consider stormwater control features (*e.g., stormwater conveyance channels, storm drain inlets, sediment basins*) to constitute “surface waters” for the purposes of triggering the requirement to comply with this Part.

Areas that you do not own or that are otherwise outside your operational control may be considered areas of undisturbed natural buffer for purposes of compliance with this part.

You must ensure that any discharges to surface waters through the area between the disturbed portions of the construction activity and any surface waters located within 50 feet of your site are treated by an area of undisturbed natural buffer and/or additional erosion and sediment controls in order to achieve a reduction in sediment load equivalent to that achieved by a 50-foot natural buffer. Refer to Appendix G (Buffer Guidance) for information to assist you in complying with this requirement, and to Part 2.1.2.1(e) for exceptions to this requirement.

a. Compliance Alternatives

You can comply with this requirement in one of the following ways:

- i. Provide and maintain a 50-foot undisturbed natural buffer (if your earth disturbances are located 50 feet or further from a surface water, then you have complied with this alternative); or
- ii. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by additional erosion and sediment controls, which in combination achieves the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
- iii. If it is infeasible to provide and maintain an undisturbed natural buffer of any size, you must implement erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.

For the compliance alternatives in Parts 2.1.2.1a.ii and 2.1.2.1a.iii, you are not required to enhance the quality of the vegetation that already exists in the buffer, or provide vegetation if none exists (e.g., arid and semi-arid areas). You only need to retain and protect from disturbance the natural buffer that existed prior to the commencement of construction. Any preexisting structures or impervious surfaces are allowed in the natural buffer provided you retain and protect from disturbance the natural buffer area outside the preexisting disturbance. Similarly, for alternatives 2.1.2.1a.ii and 2.1.2.1a.iii, you are required to implement and maintain sediment controls that achieve the sediment load reduction equivalent to the undisturbed natural buffer that existed on the site prior to the commencement of construction. In determining equivalent sediment load reductions, you may consider naturally non-vegetated areas and prior disturbances. See Appendix G for a discussion of how to determine equivalent reductions.

You must document the compliance alternative you have selected in your SWPPP, and comply with the applicable additional requirements described in Parts 2.1.2.1(b) and 2.1.2.1(c) below.

The compliance alternative selected above must be maintained throughout the duration of permit coverage, except that you may select a different compliance alternative during your period of permit coverage, in which case you must modify your SWPPP to reflect this change.

b. Additional Requirements for the Compliance Alternatives in Parts 2.1.2.1a.i and 2.1.2.1a.ii

If you choose either of the compliance alternatives in Parts 2.1.2.1a.i or 2.1.2.1a.ii above, throughout your period of coverage under this permit, you must comply with the following additional requirements:

- i. Ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls, and use velocity dissipation devices if necessary to prevent erosion caused by stormwater within the buffer;
- ii. Document in your SWPPP the natural buffer width retained on the property, and show the buffer boundary on your site plan; and
- iii. Delineate, and clearly mark off, with flags, tape, or other similar marking device all natural buffer areas.

c. Additional Requirements for the Compliance Alternatives in Parts 2.1.2.1a.ii and 2.1.2.1a.iii

If you choose either of the compliance alternatives in Parts 2.1.2.1a.ii and 2.1.2.1a.iii, you must document in your SWPPP the erosion and sediment control(s) you will use to achieve an equivalent sediment reduction, and any information you relied upon to demonstrate the equivalency.

d. **Additional Requirement for the Compliance Alternative in Part 2.1.2.1a.iii**

If you choose the compliance alternative in Part 2.1.2.1a.iii, you must also include in your SWPPP a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size.

e. **Exceptions**

- i. If there is no discharge of stormwater to surface waters through the area between your site and any surface waters located within 50 feet of your site, you are not required to comply with the requirements in this Part. This includes situations where you have implemented control measures, such as a berm or other barrier that will prevent such discharges.
- ii. Where no natural buffer exists due to preexisting development disturbances (*e.g., structures, impervious surfaces*) that occurred prior to the initiation of planning for the current development of the site, you are not required to comply with the requirements in this Part, unless you will remove portions of the preexisting development.

Where some natural buffer exists but portions of the area within 50 feet of the surface water are occupied by preexisting development disturbances, you are required to comply with the requirements in this Part. For the purposes of calculating the sediment load reduction for either Part 2.1.2.1a.ii or 2.1.2.1a.iii above, you are not expected to compensate for the reduction in buffer function from the area covered by these preexisting disturbances. See Appendix G for further information on how to comply with the compliance alternatives in Part 2.1.2.1a.ii or 2.1.2.1a.iii above.

If during your construction activity, you will disturb any portion of these preexisting disturbances, the area disturbed will be deducted from the area treated as natural buffer.

- iii. For “linear construction activities” (see Appendix A), you are not required to comply with the requirements in this Part if site constraints (*e.g., limited right-of-way*) prevent you from meeting any of the compliance alternatives in Part 2.1.2.1(a), provided that, to the extent practicable, you limit disturbances within 50 feet of the surface water and/or you provide supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 50 feet of the surface water. You must also document in your SWPPP your rationale as to why it is infeasible for you to comply with the requirements in Part 2.1.2.1(a), and describe any buffer width retained and/or supplemental erosion and sediment controls installed.
- iv. The following disturbances within 50 feet of a surface water are exempt from the requirements in this Part:
 - Construction approved under a CWA Section 404 permit; or
 - Construction of a water-dependent structure or water access area (*e.g., pier, boat ramp, trail*).

You must document in your SWPPP if any of the above disturbances will occur within the buffer area on your site.

2.1.2.2 **Install Perimeter Controls**

- a. **Installation Requirements:** You must install sediment controls along those perimeter areas of your site that will receive stormwater from earth-disturbing activities. Examples of perimeter controls include, but are not limited to, filter berms, silt fences, and temporary diversion dikes.
- b. For linear construction activities with rights-of-way that restrict or prevent the use of such perimeter controls, you must maximize the use of these controls, where infeasible, implement other practices to minimize pollutant discharges, and document in your SWPPP why it is impracticable in other areas of the construction activity.

- c. **Maintenance Requirements:** You must remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control.

2.1.2.3 **Minimize Sediment Track-Out**

You must minimize the track-out of sediment onto off-site streets, other paved areas, and sidewalks from vehicles exiting your construction site. To comply with this requirement, you must:

- a. Restrict vehicle use to properly designated exit points;
- b. Use appropriate stabilization techniques at all points that exit onto paved roads so that sediment removal occurs prior to vehicle exit (e.g., use of aggregate stone with an underlying geotextile or non-woven filter fabric, or turf mats);
- c. Where necessary, use additional controls to remove sediment from vehicle tires prior to exit (e.g., wheel washing, rumble strips, and rattle plates); and
- d. Where sediment has been tracked-out from your site onto the surface of off-site streets, other paved areas, and sidewalks, you must remove the deposited sediment by the end of the same work day in which the track-out occurs or by the end of the next work day if track-out occurs on a non-work day. You must remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment into any stormwater conveyance, storm drain inlet, or surface water.

ODAFF recognizes that some fine grains may remain visible on the surfaces of off-site streets, other paved areas, and sidewalks even after you have implemented sediment removal practices. Such “staining” is not a violation of Part 2.1.2.3.

2.1.2.4 **Control Discharges from Stockpiled Sediment or Soil**

For any stockpiles or land clearing debris composed, in whole or in part, of sediment or soil, you must comply with the following requirements (for the purposes of this permit, sediment or soil stockpiles are defined as the storage for multiple days of soil or other sediment material to be used in the construction activity):

- a. Locate the piles outside of any natural buffers established under Part 2.1.2.1(a) and physically separated from other stormwater controls, including drain inlets and areas where stormwater flow is concentrated, implemented in accordance with Part 2.1;
- b. Protect from contact with stormwater (including run-on) using a temporary perimeter sediment barrier (e.g., berms, dikes, fiber rolls, silt fences, sandbag, gravel bags, or straw bale);
- c. Where practicable, provide cover or appropriate temporary stabilization to avoid direct contact with precipitation and to minimize sediment discharge;
- d. Do not hose down or sweep soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or surface water; and
- e. Unless infeasible, contain and securely protect from wind.

2.1.2.5 **Minimize Dust**

In order to avoid pollutants from being discharged into surface waters, to the extent feasible, you must minimize the generation of dust through the appropriate application of water or other dust suppression techniques.

2.1.2.6 **Minimize the Disturbance of Steep Slopes**

You must minimize the disturbance of “steep slopes” (see definition in Appendix A).

The permit does not prevent or prohibit disturbance on steep slopes. For some construction activities,

disturbance on steep slopes may be necessary for construction (e.g., a road cut in mountainous terrain). If a disturbance to steep slopes is required for the construction activity, ODAFF would recognize that it is not economically achievable to avoid the disturbance to steep slopes.

However, in cases where steep slope disturbances are required, minimizing the disturbances to steep slopes consistent with this requirement can be accomplished through the implementation of a number of standard erosion and sediment control practices, such as by phasing disturbances to these areas and using stabilization practices designed to be used on steep grades.

2.1.2.7 *Preserve Topsoil*

You must preserve native topsoil on your site, unless infeasible.

For example, some construction activities may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases, preserving topsoil at the site would not be feasible. Some sites may not have space to stockpile topsoil on site for later use, in which case, it may also not be feasible to preserve topsoil.

2.1.2.8 *Minimize Soil Compaction*

In areas of your site where final vegetative stabilization will occur or where infiltration practices will be installed, you must either:

- a. **Restrict vehicle / equipment use.** Restrict vehicle and equipment use in these locations to avoid soil compaction; or
- b. **Use soil conditioning techniques.** Prior to seeding or planting areas of exposed soil that have been compacted, use techniques that condition the soils to support vegetative growth, if necessary and feasible.

2.1.2.9 *Protect Storm Drain Inlets*

If you discharge to any storm drain inlet that carries stormwater flow from your site directly to a surface water, and you have authority to access the storm drain inlet, you must:

- a. **Installation Requirements.** Install inlet protection measures (e.g., fabric filters, sandbags, concrete blocks, and gravel barriers) that remove sediment from your discharge prior to entry into the storm drain inlet. Inlet protection measures can be removed in the event of flood conditions or to prevent erosion.
- b. **Maintenance Requirements.** Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, you must remove the deposited sediment by the end of the same work day in which it is found or by the end of the following work day if removal by the same work day is not feasible.

2.1.2.10 *Control Stormwater Volume and Velocity*

All sites are required to control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges.

2.1.3. Requirements Applicable Only to Sites Using These Specific Stormwater Controls

You are required to comply with the following requirements if you will install any of the following stormwater controls at your site:

- 2.1.3.1 **Constructed Stormwater Conveyance Channels.** Design stormwater conveyance channels to avoid unstabilized areas on the site and to reduce erosion, unless infeasible. Minimize erosion of channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters during discharge conditions through the use of erosion controls and velocity dissipation devices (e.g., check dams, sediment traps, riprap, or grouted riprap at outlets) within and along the length of any

constructed stormwater conveyance channel, and at any outlet to provide a non-erosive flow velocity.

2.1.3.2 ***Sediment Basins and Impoundments.*** If you install a sediment basin, you must comply with the following:

a. **Design requirements.**

- i. Provide storage for either (1) the calculated volume of runoff from a 2-year, 24-hour storm, or (2) 3,600 cubic feet per acre drained;
- ii. When discharging from the sediment basin or impoundment, utilize outlet structures that withdraw water from the surface in order to minimize the discharge of pollutants, unless infeasible;

ODAFF believes that the circumstances in which it is infeasible to design outlet structures in this manner are rare. Exceptions may include areas with extended cold weather, where surface outlets may not be feasible during certain time periods (although it is expected that they would be used during other periods). If you have determined that it is infeasible to meet this requirement, you must provide documentation in your SWPPP to support your determination.

- iii. Prevent erosion of (1) the sediment basin using stabilization controls (*e.g., erosion control blankets*), and (2) the inlet and outlet using erosion controls and velocity dissipation devices; and
- iv. Sediment basins and impoundments must be situated outside of surface waters and any natural buffers established under Part 2.1.2.1(a), and must be designed to avoid collecting water from wetlands.

- b. **Maintenance requirements.** Keep in effective operating condition and remove accumulated sediment to maintain at least ½ of the design capacity of the sediment basin at all times.

2.1.3.3 ***Use of Treatment Chemicals.*** If ODAFF has authorized the use of polymers, flocculants, or other treatment chemicals at your site, you must comply with the following minimum requirements:

- a. **Use conventional erosion and sediment controls prior to and after the application of treatment chemicals.** Use conventional erosion and sediment controls prior to chemical addition to ensure effective treatment. Chemicals may only be applied where treated stormwater is directed to a sediment control (*e.g., sediment basin, perimeter control*) prior to discharge.
- b. **Select appropriate treatment chemicals.** Chemicals must be selected that are appropriately suited to the types of soils likely to be exposed during construction and discharged to locations where chemicals will be applied, and to the expected turbidity, pH, and flow rate of stormwater flowing into the chemical treatment system or area.
- c. **Minimize discharge risk from stored chemicals.** Store all treatment chemicals in leak-proof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (*e.g., spill berms, decks, spill containment pallets*), or provide equivalent measures, designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means (*e.g., storing chemicals in covered area or having a spill kit available on site*).
- d. **Comply with state/local requirements.** Comply with relevant state and local requirements affecting the use of treatment chemicals.
- e. **Use chemicals in accordance with good engineering practices and specifications of the chemical provider/supplier.** You must also use treatment chemicals and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable

chemicals, or document specific departures from these practices or specifications and how they reflect good engineering practice.

- f. **Ensure proper training.** Ensure that all persons who handle and use treatment chemicals at the construction site are provided with appropriate, product-specific training. Among other things, the training must cover proper dosing requirements.
- g. **Comply with additional requirements for the approved use of cationic chemicals.** If you have been authorized to use cationic chemicals at your site pursuant to Part 1.2.4, and the authorization is conditioned on your compliance with additional requirements necessary to ensure that the use of such chemicals will not cause, have the reasonable potential to cause, or contribute to an exceedance of water quality standards, you are required to comply with all such requirements.
- h. **Provide proper SWPPP documentation.** You must include documentation in your SWPPP consistent with Parts 7.2.6.9 and 7.2.10.2 on the specific chemicals and chemical treatment systems you will use, and how you will comply with the requirements in this Part.

2.1.3.4 **Dewatering Practices.** You are prohibited from discharging ground water or accumulated stormwater that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation, unless such waters are first effectively managed by appropriate controls (e.g., sediment basins, sediment socks, dewatering tanks, tube settlers, weir tanks, or other filtration systems). Uncontaminated, non-turbid dewatering water can be discharged without being routed to a control.

You must also meet the following requirements for dewatering activities:

- a. **Discharge requirements.**
 - i. Do not discharge visible floating solids or foam;
 - ii. Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;
 - iii. To the extent feasible, utilize vegetated, upland areas of the site to infiltrate dewatering water before discharge. In no case will surface waters be considered part of the treatment area;
 - iv. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.1.3.1;
 - v. With backwash water, either haul it away for disposal or return it to the beginning of the treatment process; and
 - vi. Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.
- b. **Treatment chemical restrictions.** If you are using polymers, flocculants, or other treatment chemicals to treat dewatering water, you must comply with the requirements in Parts 2.1.3.3.

2.2. STABILIZATION REQUIREMENTS.

You are required to stabilize exposed portions of your site in accordance with the requirements of this Part.

For the purposes of this permit, "exposed portions of your site" means areas of exposed soil that are required to be stabilized. Note that ODAFF does not expect that temporary or permanent stabilization measures to be applied to areas that are intended to be left unvegetated or unstabilized following construction (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials).

2.2.1. Deadlines for Initiating and Completing Stabilization.

2.2.1.1 ***Deadline to Initiate Stabilization.*** You must initiate soil stabilization measures immediately whenever earth-disturbing activities have permanently or temporarily ceased on any portion of the site.

Earth-disturbing activities have permanently ceased whenever clearing, grading, excavating or other earth-disturbing activities within any area of your construction site has been completed.

Earth-disturbing activities have temporarily ceased whenever clearing, grading, excavating or other earth-disturbing activities within any area of the site will not resume (i.e., the land will be idle) for a period of 14 or more calendar days, but such activities will resume in the future.

The 14 calendar day timeframe above begins counting as soon as you know that construction work on a portion of your site will be temporarily ceased. In circumstances where you experience unplanned or unanticipated delays in construction due to circumstances beyond your control (e.g., sudden work stoppage due to unanticipated problems associated with construction labor, funding, or other issues related to the ability to work on the site; weather conditions rendering the site unsuitable for the continuation of construction work) and you do not know at first how long the work stoppage will continue, your requirement to immediately initiate stabilization is triggered as soon as you know with reasonable certainty that work will be stopped for 14 or more additional calendar days. At that point, you must comply with Parts 2.2.1.1 and 2.2.1.2.

For the purposes of this permit, ODAFF will consider any of the following types of activities to constitute the initiation of stabilization:

1. prepping the soil for vegetative or non-vegetative stabilization;
2. applying mulch or other non-vegetative product to the exposed area;
3. seeding or planting the exposed area;
4. starting any of the activities in # 1 – 3 on a portion of the area to be stabilized, but not on the entire area; and
5. finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization in Parts 2.2.1.2 and 2.2.1.3.

This list of examples is not exhaustive.

The term “immediately” is used to define the deadline for initiating stabilization measures. In the context of this provision, “immediately” means as soon as practicable, but no later than the end of the next work day, following the day when the earth-disturbing activities have temporarily or permanently ceased.

2.2.1.2 ***Deadline to Complete Stabilization Activities.*** As soon as practicable, but no later than 14 calendar days after the initiation of soil stabilization measures consistent with Part 2.2.1.1, you are required to have completed:

- a. For vegetative stabilization, all activities necessary to initially seed or plant the area to be stabilized; and/or
- b. For non-vegetative stabilization, the installation or application of all such non-vegetative measures.

ODAFF may determine, based on an inspection carried out under Part 4.2 and corrective actions required under 5.3, that the level of sediment discharge on the site makes it necessary to require a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing stormwater controls, ODAFF may require stabilization to correct this problem.

2.2.1.3 ***Exceptions to the Deadlines for Initiating and Completing Stabilization.***

- a. *Deadlines for construction activities occurring in arid or semi-arid areas, or drought- stricken*

areas. These requirements apply if (1) your site is located in an arid area, a semi-arid area, or a drought-stricken area, as these terms are defined in Appendix A, (2) construction will occur during the seasonally dry period or during a period in which drought is predicted to occur, and (3) you are using vegetative cover for temporary or permanent stabilization. You may also comply with the deadlines in Part 2.2.1.1 instead. The deadlines for these types of construction activities are as follows:

- i. Immediately initiate, and within 14 calendar days of a temporary or permanent cessation of work in any portion of your site is complete, the installation of temporary non-vegetative stabilization measures to the extent necessary to prevent erosion;
 - ii. As soon as practicable, given conditions or circumstances on your site, complete all activities necessary to initially seed or plant the area to be stabilized; and
 - iii. If construction is occurring during the seasonally dry period, indicate in your SWPPP the beginning and ending dates of the seasonally dry period and your site conditions. You must also include the schedule you will follow for initiating and completing vegetative stabilization.
- b. *Deadlines for construction activities that are affected by circumstances beyond the control of the permittee that delay the initiation and/or completion of vegetative stabilization as required in Parts 2.2.1.1 and/or 2.2.1.2.* If you are unable to meet the deadlines in Parts 2.2.1.1 and/or 2.2.1.2 due to circumstances beyond your control, and you are using vegetative cover for temporary or permanent stabilization, you may comply with the following stabilization deadlines instead:
- i. Immediately initiate, and within 14 calendar days complete, the installation of temporary non-vegetative stabilization measures to prevent erosion;
 - ii. Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on your site. You are required to have stabilized the exposed portions of your site consistent with Part 2.2.2 prior to terminating permit coverage under Part 8.2; and
 - iii. Document the circumstances that prevent you from meeting the deadlines required in Parts 2.2.1.1 and/or 2.2.1.2 and the schedule you will follow for initiating and completing stabilization.
- c. *Deadlines for sites discharging to sensitive waters.* For any portion of the site that discharges to a sediment or nutrient-impaired water (see Part 3.2) or to a water that is identified as ORW, HQW, or SWS for antidegradation purposes (see Part 3.3), you are required to complete the stabilization activities specified in Parts 2.2.1.2(a) and/or 2.2.1.2(b) within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.

If you qualify for the deadlines for initiating and completing stabilization in Part 2.2.1.3(a) or (b), you may comply with the stabilization deadlines in Part 2.2.1.3(a) or (b) for any portion of your site that discharges to a sensitive water.

2.2.2. Criteria for Final Stabilization.

To be considered adequately final stabilized, you must meet the criteria below depending on the type of cover you are using, either vegetative or non-vegetative.

2.2.2.1 Vegetative Stabilization.

- a. *For all sites, except those located in arid or semi-arid areas or on agricultural lands.*
 - i. If you are vegetatively stabilizing any exposed portion of your site through the use of seed or planted vegetation, you must provide established uniform perennial vegetation (*e.g.*,

evenly distributed without large bare areas), which provides 70 percent or more of the density of coverage that was provided by vegetation prior to commencing earth-disturbing activities. You should avoid the use of invasive species;

- ii. For final stabilization, vegetative cover must be perennial; and
 - iii. Immediately after seeding or planting the area to be vegetatively stabilized, to the extent necessary to prevent erosion on the seeded or planted area, you must select, design, and install non-vegetative erosion controls that provide cover (*e.g., mulch, rolled erosion control products*) to the area while vegetation is becoming established.
- b. ***For sites located in arid or semi-arid areas, or drought-stricken areas.*** If you are located in an arid or semi-arid area, or a drought-stricken area, as these terms are defined in Appendix A, you are considered to have completed final stabilization if both of the following criteria are met:
- i. The area you have seeded or planted must within 3 years provide established vegetation that covers 70 percent or more of the density of vegetation prior to commencing earth-disturbing activities; and
 - ii. In addition to seeding or planting the area to be vegetatively stabilized, to the extent necessary to prevent erosion on the seeded or planted area, you must select, design, and install non-vegetative erosion controls that provide cover for at least 3 years without active maintenance by you.
- c. ***For sites located on land used for agriculture.*** Disturbed areas on land used for agricultural purposes (*e.g., pipelines across crop or range land, staging areas for highway construction*) that are restored to their pre-construction agricultural use are not subject to these final stabilization criteria. Areas disturbed that were not previously used for agricultural activities, and areas that are not being returned to preconstruction agricultural use, must meet the conditions for stabilization in this Part.

2.2.2.2 ***Non-Vegetative Stabilization.*** If you are using non-vegetative controls to stabilize exposed portions of your site, or if you are using such controls to temporarily protect areas that are being vegetatively stabilized, you must provide effective non-vegetative cover (*e.g., hydromulch or erosion control blankets for temporary stabilization and riprap, gabions, or geotextiles for permanent stabilization*) to stabilize any such exposed portions of your site.

2.3. POLLUTION PREVENTION REQUIREMENTS.

You are required to design, install, and maintain effective pollution prevention measures in order to minimize the discharge of pollutants. Consistent with this requirement, you must:

- Eliminate certain pollutant discharges from your site (see Part 2.3.1);
- Properly maintain all pollution prevention controls (see Part 2.3.2); and
- Comply with pollution prevention standards for pollutant-generating activities that occur at your site (see Part 2.3.3).

These requirements apply to all areas of your construction site and any and all construction support activities covered by this permit consistent with Part 1.3(c).

2.3.1. Prohibited Discharges.

You are prohibited from discharging the following from your construction site:

- 2.3.1.1 Wastewater from washout of concrete, unless managed by an appropriate control as described in Part 2.3.3.4;
- 2.3.1.2 Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

- 2.3.1.3 Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- 2.3.1.4 Soaps, solvents, or detergents used in vehicle and equipment washing; and
- 2.3.1.5 Toxic or hazardous substances from a spill or other release.

2.3.2. General Maintenance Requirements.

You must ensure that all pollution prevention controls installed in accordance with this Part remain in effective operating condition and are protected from activities that would reduce their effectiveness. You must inspect all pollutant-generating activities and pollution prevention controls in accordance with your inspection frequency requirements in Parts 4.1.2 or 3.2.2.1 to avoid situations that may result in leaks, spills, and other releases of pollutants in stormwater discharges to receiving waters, and must document your findings in accordance with Part 4.1.7. If you find that controls need to be replaced, repaired, or maintained, you must make the necessary repairs or modifications in accordance with the following:

- 2.3.2.1 Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next work day, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance.
- 2.3.2.2 When installation of a new pollution prevention control or a significant repair is needed, you must install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery. If it is infeasible to complete the installation or repair within 7 calendar days, you must document in your SWPPP why it is infeasible to complete the installation or repair within the 7 calendar day timeframe and document your schedule for installing the stormwater control(s) and making it operational as soon as practicable after the 7 calendar day timeframe. Where these actions result in changes to any of the pollution prevention controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 7 calendar days of completing this work.

2.3.3. Pollution Prevention Standards.

You are required to comply with the pollution prevention standards in this Part if you conduct any of the following activities at your site or at any construction support activity areas covered by this permit (see Part 1.3.c):

- Fueling and maintenance of equipment or vehicles;
- Washing of equipment and vehicles;
- Storage, handling, and disposal of construction materials, products, and wastes; and
- Washing of applicators and containers used for paint, concrete, or other materials.

The pollution prevention standards are as follows:

- 2.3.3.1 ***Fueling and Maintenance of Equipment or Vehicles.*** If you conduct fueling and/or maintenance of equipment or vehicles at your site, you must provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuel and oil, from the area where these activities will take place.
- 2.3.3.2 To comply with the prohibition in Part 2.3.1.3, you must:
 - a. If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR 112 and Section 311 of the CWA;
 - b. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;
 - c. Use drip pans and absorbents under or around leaky vehicles;
 - d. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local

requirements;

- e. Clean up spills or contaminated surfaces immediately, using dry clean up measures where possible, and eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and
- f. Do not clean surfaces by hosing the area down.

2.3.3.3 ***Washing of Equipment and Vehicles.***

- a. You must provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of wash waters; and
- b. To comply with the prohibition in Part 2.3.1.4, for storage of soaps, detergents, or solvents, you must provide either (1) cover (*e.g., plastic sheeting or temporary roofs*) to prevent these detergents from coming into contact with precipitation and stormwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas.

2.3.3.4 ***Storage, Handling, and Disposal of Construction Products, Materials, and Wastes.*** You must minimize the exposure to precipitation and stormwater of any of the products, materials, or wastes specified below that are present at your site by complying with the requirements in this Part.

These requirements do not apply to those products, materials, or wastes that are not a source of stormwater contamination or that are designed to be exposed to stormwater.

To ensure you meet this requirement, you must:

- a. *For building products (e.g., asphalt sealants, adhesives, etc.):* In storage areas, provide either (1) cover (*e.g., plastic sheeting or temporary roofs*) to prevent these products from coming into contact with precipitation and stormwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas.
- b. *For pesticides, herbicides, insecticides, fertilizers, and landscape materials:*
 - i. In storage areas, provide either (1) cover (*e.g., plastic sheeting or temporary roofs*) to prevent these chemicals from coming into contact with precipitation and stormwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas; and
 - ii. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label.
- c. *For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:*
 - i. To comply with the prohibition in Part 2.3.1.3, store chemicals in water-tight containers, and provide either (1) cover (*e.g., plastic sheeting or temporary roofs*) to prevent these containers from coming into contact with precipitation and stormwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas (*e.g., spill kits*), or provide secondary containment (*e.g., spill berms, decks, spill containment pallets*); and
 - ii. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the area down. Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.
- d. *For hazardous or toxic waste:*
 - i. Separate hazardous or toxic waste from construction and domestic waste;
 - ii. Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal,

state, tribal, or local requirements;

- iii. Store all containers that will be stored outside within appropriately- sized secondary containment (e.g., spill berms, decks, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in covered area or having a spill kit available on site);
 - iv. Dispose of hazardous or toxic waste in accordance with the manufacturer’s recommended method of disposal and in compliance with federal, state, tribal, and local requirements; and
 - v. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the area down. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.
- e. *For construction and domestic waste:* Provide waste containers (e.g., dumpster or trash receptacle) of sufficient size and number to contain construction and domestic wastes. In addition, you must:
- i. On work days, clean up and dispose of waste in designated waste containers; and
 - ii. Clean up immediately if containers overflow.
- f. *For sanitary waste:* Position portable toilets so that they are secure and will not be tipped or knocked over. Also, insure that they are located away from surface waters and stormwater inlets or conveyances.

2.3.3.5 Washing of Applicators and Containers used for Paint, Concrete, or Other Materials. To comply with the prohibition in Parts 2.3.1.1 and 2.3.1.2, you must provide an effective means of eliminating the discharge of water from the washout and cleanout of stucco, paint, concrete, form release oils, curing compounds, and other construction materials. To comply with this requirement, you must:

- a. Direct all washwater into a leak-proof container or leak-proof pit. The container or pit must be designed so that no overflows can occur due to inadequate sizing or precipitation;
- b. Handle washout or cleanout wastes as follows:
 - i. Do not dump liquid wastes in storm sewers;
 - ii. Dispose of liquid wastes in accordance with applicable requirements in Part 2.3.3.4; and
 - iii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part 2.3.3.4; and
- c. Locate any washout or cleanout activities as far away as possible from surface waters and stormwater inlets or conveyances, and, to the extent practicable, designate areas to be used for these activities and conduct such activities only in these areas.

2.3.4. Emergency Spill Notification.

You are prohibited from discharging toxic or hazardous substances from a spill or other release, consistent with Part 2.3.1.5. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs during a 24-hour period, you must notify ODAFF at (405) 522-5892 as soon as you have knowledge of the discharge. You must also, within 7 calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release. State, tribal, or local requirements may result in additional reporting of spills or discharges to local emergency response, public health, or drinking water supply agencies.

2.3.5. Fertilizer Discharge Restrictions.

You are required to minimize discharges of fertilizers containing nitrogen or phosphorus. To meet this requirement, you must comply with the following requirements:

- 2.3.5.1 Apply at a rate and in amounts consistent with manufacturer's specifications, or document departures from the manufacturer specifications where appropriate in Part 7.2.7.2 of the SWPPP;
- 2.3.5.2 Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- 2.3.5.3 Avoid applying before heavy rains that could cause excess nutrients to be discharged;
- 2.3.5.4 Never apply to frozen ground;
- 2.3.5.5 Never apply to stormwater conveyance channels with flowing water; and
- 2.3.5.6 Follow all other federal, state, tribal, and local requirements regarding fertilizer application.

3. WATER QUALITY-BASED EFFLUENT LIMITATIONS.

3.1. GENERAL EFFLUENT LIMITATION TO MEET APPLICABLE WATER QUALITY STANDARDS

Your discharge must be controlled as necessary to meet applicable state of Oklahoma water quality standards.

In the absence of information demonstrating otherwise, ODAFF expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time you become aware, or ODAFF determines, that your discharge is not being controlled as necessary to meet applicable water quality standards, you must take corrective action as required in Part 5.2.1, and document the corrective actions as required in Part 5.2.2 and Part 5.4.

ODAFF will also impose additional water quality-based limitations on a site-specific basis, or require you to obtain coverage under an individual permit, if information in your NOI, or from other sources indicates that your discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in an approved Total Maximum Daily Load (TMDL).

3.2. DISCHARGE LIMITATIONS FOR IMPAIRED WATERS

If you discharge to a surface water that is impaired for (1) sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or (2) nutrients, including impairments for nitrogen and/or phosphorus, you are required to comply with the requirements in Part 3.2.2.

For the purposes of this Part, “impaired waters” are waters identified as impaired on the appropriate CWA Section 303(d) list, or waters with an approved TMDL. Your construction site will be considered to discharge to an impaired water if the first surface water to which you discharge is identified by ODAFF pursuant to Section 303(d) of the CWA as not meeting an applicable water quality standard, or is included in an approved or established TMDL. For discharges that enter a storm sewer system prior to discharge, the first surface water to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

If you discharge to an impaired water that is impaired for a parameter other than a sediment-related parameter or nutrients, ODAFF will inform you if any additional limits or controls are necessary for your discharge to be controlled as necessary to meet water quality standards, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is necessary in accordance with Part 1.4.5.

If during your coverage under a previous permit, you were required to install and maintain stormwater controls specifically to meet the assumptions and requirements of an approved or established TMDL (for any parameter) or to otherwise control your discharge to meet water quality standards, you must continue to implement such controls as part of this permit.

3.2.1. Identify if You Discharge to an Impaired Water.

If you discharge to an impaired water, you must provide the following information in your NOI:

- A list of all impaired waters to which you discharge;
- The pollutant(s) for which the surface water is impaired; and
- Whether a TMDL has been approved or established for the waters to which you discharge.

3.2.2. Requirements for Discharges to Sediment or Nutrient-Impaired Waters.

If you discharge to a surface water that is impaired for (1) sediment or a sediment-related parameter (*e.g., total suspended solids (TSS) or turbidity*) and/or (2) nutrients (*e.g., nitrogen and/or phosphorus*), including impaired waters for which a TMDL has been approved or established for the impairment, you are required to comply with the following stormwater control requirements, which supplement the requirements

applicable to your site in other corresponding parts of the permit

3.2.2.1 ***Frequency of Site Inspection.*** You must conduct inspections at the frequency specified in Part 4.1.3.

3.2.2.2 ***Deadline to Complete Stabilization.*** You must comply with the deadlines for completing site stabilization as specified in Part 2.2.1.3(c).

3.2.2.3 ***State and Tribal Requirements.*** You must comply with any additional state or tribal impairment-related requirements.

ODAFF will also impose additional water quality-based limitations on a site-specific basis, or require you to obtain coverage under an individual permit, if it is determined that the controls in the Part will not be sufficient to control discharges consistent with the assumptions and requirements of an applicable wasteload allocation of an approved or established TMDL or to prevent the site from contributing to the impairment.

3.3. DISCHARGES TO WATERS IDENTIFIED AS ORW, HQW, OR SWS.

3.3.1. Identify if You Discharge to an ORW, HQW, or SWS Water.

If you discharge to a water identified as an ORW, HQW, or SWS water, you must provide on your NOI a list of waters identified as ORW, HQW, or SWS to which you discharge. See Appendix A of the Oklahoma Water Quality Standards for a list of ORW, HQW, or SWS waters.

For discharges that enter a storm sewer system prior to discharge, the surface water to which you discharge is the first surface water that receives the stormwater discharge from the storm sewer system.

3.3.2. Requirements for New Construction Activities Discharging to ORW, HQW, or SWS Waters.

For new construction activities, if you will discharge to an ORW, HQW, or SWS water, you are required to comply with the requirements in Parts 4.1.3 (inspection frequencies) and 2.2.1.3(c) (stabilization deadlines). In addition, on a case-by-case basis, ODAFF may notify operators of such new construction activities or operators of existing construction activities with increased discharges that additional analyses, stormwater controls, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary in accordance with Part 1.4.5.

4. INSPECTIONS.

4.1. SITE INSPECTIONS.

4.1.1. Person(s) Responsible for Inspecting Site.

The person(s) inspecting your site may be a person on your staff or a third party you hire to conduct such inspections. You are responsible for ensuring that the person who conducts inspections is a “qualified person.”

A “qualified person” is a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit.

4.1.2. Frequency of Inspections.

At a minimum, you must conduct a site inspection in accordance with one of the two schedules listed below, unless you are subject to Part 4.1.3 or Part 4.1.4:

4.1.2.1 At least once every 7 calendar days; or

4.1.2.2 Once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.1.7.1(d).

Inspections are only required during the construction activity’s normal working hours.

You are required to specify in your SWPPP which schedule you will be following.

“Within 24 hours of the occurrence of a storm event” means that you are required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. Thus, if you have elected to inspect bi-weekly in accordance with Part 4.1.2.2 and there is a storm event at your site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, you are required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

4.1.3. Increase in Inspection Frequency for Sites Discharging to Sensitive Waters.

For any portion of the site that discharges to a sediment or nutrient-impaired water (see Part 3.2) or to a water that is identified ORW, HQW, or SWS for antidegradation purposes (see Part 3.3), instead of the inspection frequency specified in Part 4.1.2, you must conduct inspections in accordance with the following inspection frequencies:

4.1.3.1 Once every 7 calendar days; and

4.1.3.2 Within 24 hours of the occurrence of a storm event of 0.25 inches or greater. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.1.7.1(d).

Inspections are only required during the construction activity’s normal working hours.

“Within 24 hours of the occurrence of a storm event” means that you are required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. Thus, if there is a storm event at your site that continues for multiple days, and each day of the storm produces

0.25 inches or more of rain, you are required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

If you qualify for any of the reduced inspection frequencies in Part 4.1.4, you may conduct inspections in accordance with Part 4.1.4 for any portion of your site that discharges to a sensitive water.

4.1.4. Reductions in Inspection Frequency.

Your inspection frequency may be reduced as follows:

4.1.4.1 ***For Stabilized Areas.*** You may reduce the frequency of inspections to once per month in any area of your site where the stabilization steps in Parts 2.2.1.2a and 2.2.1.2b have been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in Parts 4.1.2 or 4.1.3, if applicable. You must document the beginning and ending dates of this period in your records.

4.1.4.2 ***For Arid, Semi-Arid, or Drought-Stricken Areas.*** You may reduce the frequency of inspections to once per month and within 24 hours of the occurrence of a storm event of 0.25 inches or greater if your site is located in an arid, semi-arid, or drought-stricken area, as these terms are defined in Appendix A, and construction is occurring during the seasonally dry period or during a period in which drought is predicted to occur. You must document that you are using this reduced schedule and the beginning and ending dates of the seasonally dry period in your SWPPP. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, you must record the total rainfall measured for that day in accordance with Part 4.1.7.1(d).

Inspections are only required during the construction activity's normal working hours.

"Within 24 hours of the occurrence of a storm event" means that you are required to conduct an inspection within 24 hours once a storm event has produced 0.25 inches, even if the storm event is still continuing. Thus, if there is a storm event at your site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, you are required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

4.1.4.3 For Frozen Conditions.

- a. If you are suspending earth-disturbing activities due to frozen conditions, you may temporarily suspend inspections on your site until thawing conditions (see Appendix A) begin to occur if:
 - i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at your site for at least 3 months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain on snow events) make discharges likely, you must immediately resume your regular inspection frequency as described in Parts 4.1.2 or 4.1.3, if applicable;
 - ii. Land disturbances have been suspended; and
 - iii. All disturbed areas of the site have been temporarily or permanently stabilized in accordance with Part 2.2.
- b. If you are still conducting earth-disturbing activities during frozen conditions, you may reduce your inspection frequency to once per month if:
 - i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at your site for at least 3 months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain on snow events) make discharges likely, you must immediately resume your regular inspection frequency as described in Parts 4.1.2 or 4.1.3 if applicable; and

- ii. Except for areas in which you are actively conducting earth-disturbing activities, disturbed areas of the site have been temporarily or permanently stabilized in accordance with Part 2.2.

You must document the beginning and ending dates of this period in your SWPPP.

4.1.5. Areas that Need to Be Inspected. During your site inspection, you must at a minimum inspect the following areas of your site:

- 4.1.5.1 All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with Part 2.2;
- 4.1.5.2 All stormwater controls (including pollution prevention measures) installed at the site to comply with this permit;
- 4.1.5.3 Material, waste, borrow, or equipment storage and maintenance areas that are covered by this permit;
- 4.1.5.4 All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater;
- 4.1.5.5 All points of discharge from the site; and
- 4.1.5.6 All locations where stabilization measures have been implemented.

You are not required to inspect areas that, at the time of the inspection, are considered unsafe to your inspection personnel.

4.1.6. Requirements for Inspections. During your site inspection, you must at a minimum:

- 4.1.6.1 Check whether all erosion and sediment controls and pollution prevention controls are installed, appear to be operational, and are working as intended to minimize pollutant discharges. Determine if any controls need to be replaced, repaired, or maintained in accordance with Parts 2.1.1.4 and 2.3.2;
- 4.1.6.2 Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;
- 4.1.6.3 Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2 and/or 3;
- 4.1.6.4 At points of discharge and, if applicable, the banks of any surface waters flowing within your property boundaries or immediately adjacent to your property, check for signs of visible erosion and sedimentation (*i.e., sediment deposits*) that have occurred and are attributable to your discharge; and
- 4.1.6.5 Identify any and all incidents of noncompliance observed.
- 4.1.6.6 If a discharge is occurring during your inspection, you are required to:
 - a. Identify all points of the site from which there is a discharge;
 - b. Observe and document the visual quality of the discharge, and take note of the characteristics of the stormwater discharge, including color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollutants; and
 - c. Document whether your stormwater controls are operating effectively, and describe any such controls that are clearly not operating as intended or are in need of maintenance.
- 4.1.6.7 Based on the results of your inspection, initiate corrective action under Part 5.

4.1.7. Inspection Report.

- 4.1.7.1 **Requirement to Complete Inspection Report.** You must complete an inspection report within 24 hours of completing any site inspection. Each inspection report must include the following:

- a. The inspection date;
- b. Names and titles of personnel making the inspection;
- c. A summary of your inspection findings, covering at a minimum the observations you made in accordance with Part 4.1.6;
- d. If you are inspecting your site at the frequency specified in Part 4.1.2.2, Part 4.1.3, or Part 4.1.4.2, and you conducted an inspection because of rainfall measuring 0.25 inches or greater, you must include the applicable rain gauge or weather station readings that triggered the inspection; and
- e. If you have determined that it is unsafe to inspect a portion of your site, you must describe the reason you found it to be unsafe and specify the locations that this condition applied to.

4.1.7.2 **Signature Requirements.** Each inspection report must be signed in accordance with Appendix F Section K of this permit.

4.1.7.3 **Recordkeeping Requirements.** You are required to keep a current copy of all inspection reports at the site or at an easily accessible location, so that it can be made available at the time of an onsite inspection or upon request by ODAFF. For purposes of this permit, your inspection reports may be kept electronically if the records are:

- a. In a format that can be read in a similar manner as a paper record;
- b. Legally dependable with no less evidentiary value than their paper equivalent; and
- c. Accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

All inspection reports completed for this Part must be retained for at least 3 years from the date that your permit coverage expires or is terminated.

4.2. INSPECTIONS BY ODAFF.

You must allow ODAFF, or an authorized representative of the ODAFF, to conduct the following activities at reasonable times:

- a. Enter onto areas of your site, including any construction support activity areas covered by this permit (see Part 1.3(c)), and onto locations where records are kept under the conditions of this permit;
- b. Access and copy any records that must be kept under the conditions of this permit;
- c. Inspect your construction site, including any construction support activity areas covered by this permit (see Part 1.3(c)) and any stormwater controls installed and maintained at the site and off-site; and
- d. Sample or monitor for the purpose of ensuring compliance.

5. CORRECTIVE ACTIONS.

5.1. “CORRECTIVE ACTIONS” DEFINED.

Corrective actions are actions you take in compliance with this Part to:

- Repair, modify, or replace any stormwater control used at the site;
- Clean up and properly dispose of spills, releases, or other deposits; or
- Remedy a permit violation.

5.2. REQUIREMENTS FOR TAKING CORRECTIVE ACTION.

You must complete the following corrective actions in accordance with the deadlines specified in this Part. In all circumstances, you must immediately take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events.

In this context, the term “immediately” requires construction operators to, on the same day a condition requiring corrective action is found, take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational. However, if the problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

5.2.1. For any of the following conditions on your site, you must install a new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery. If it is infeasible to complete the installation or repair within 7 calendar days, you must document in your SWPPP why it is infeasible to complete the installation or repair within the 7 calendar day timeframe and document your schedule for installing the stormwater control(s) and making it operational as soon as practicable after the 7-day timeframe.

5.2.1.1 A required stormwater control was never installed, was installed incorrectly, or not in accordance with the requirements in Parts 2 and/or 3; or

5.2.1.2 You become aware that the stormwater controls you have installed and are maintaining are not effective enough for the discharge to meet applicable water quality standards or applicable requirements in Part 3.1. In this case, you must notify ODAFF by the end of the next work day; or

5.2.1.3 One of the prohibited discharges in Part 2.3.1 is occurring or has occurred.

5.2.2. Where your corrective actions result in changes to any of the stormwater controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 7 calendar days of completing corrective action work.

5.3. CORRECTIVE ACTION REQUIRED BY ODAFF.

You must comply with any corrective actions required by ODAFF as a result of permit violations found during an inspection carried out under Part 4.2.

5.4. CORRECTIVE ACTION REPORT.

For each corrective action taken in accordance with this Part, you must complete a corrective action report, which includes the applicable information in Parts 5.4.1 and 5.4.2. Note that these reports must be maintained in your records but do not need to be provided to ODAFF except upon request.

5.4.1. Within 24 hours of discovering the occurrence of one of the triggering conditions in Part 5.2.1 at your site, you must complete a report of the following:

5.4.1.1 Which condition was identified at your site;

5.4.1.2 The nature of the condition identified; and

5.4.1.3 The date and time of the condition identified and how it was identified.

5.4.2. Within 7 calendar days of discovering the occurrence of one of the triggering conditions in Part 5.2.1 at your site, you must complete a report of the following:

5.4.2.1 Any follow-up actions taken to review the design, installation, and maintenance of stormwater controls, including the dates such actions occurred;

5.4.2.2 A summary of stormwater control modifications taken or to be taken, including a schedule of activities necessary to implement changes, and the date the modifications are completed or expected to be completed; and

5.4.2.3 Notice of whether SWPPP modifications are required as a result of the condition identified or corrective action.

5.4.3. Signature Requirements. Each corrective action report must be signed and certified in accordance with Appendix F, Section K of this permit.

5.4.4. Recordkeeping Requirements. You are required to keep a current copy of all corrective action reports at the site or at an easily accessible location, so that it can be made available at the time of an onsite inspection or upon request by ODAFF. For purposes of this permit, your corrective action reports may be kept electronically if the records are:

5.4.4.1 In a format that can be read in a similar manner as a paper record;

5.4.4.2 Legally dependable with no less evidentiary value than their paper equivalent; and

5.4.4.3 Accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

All corrective action reports completed for this Part must be retained for at least 3 years from the date that your permit coverage expires or is terminated.

6. STAFF TRAINING REQUIREMENTS.

The operator, group of operators, is required to assemble a “stormwater team” which is responsible for overseeing the development of the SWPPP, any later modifications to it, and for compliance with the requirements in this permit.

Prior to the commencement of earth-disturbing activities or pollutant-generating activities, whichever occurs first, you must ensure that the following personnel on the stormwater team understand the requirements of this permit and their specific responsibilities with respect to those requirements:

- Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention measures);
- Personnel responsible for the application and storage of treatment chemicals (if applicable);
- Personnel who are responsible for conducting inspections as required in Part 4.1.1; and
- Personnel who are responsible for taking corrective actions as required in Part 5.

If the person requiring training is a new employee, who starts after you commence earth-disturbing or pollutant-generating activities, you must ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit.

For emergency-related construction activities, the requirement to train personnel prior to commencement of earth-disturbing activities does not apply; however, such personnel must have the required training prior to NOI submission.

You are responsible for ensuring that all activities on the site comply with the requirements of this permit. You are not required to provide or document formal training for subcontractors or other outside service providers, but you must ensure that such personnel understand any requirements of the permit that may be affected by the work they are subcontracted to perform.

At a minimum, personnel must be trained to understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):

- The permit deadlines associated with installation, maintenance, and removal of stormwater controls and with stabilization;
- The location of all stormwater controls on the site required by this permit, and how they are to be maintained;
- The proper procedures to follow with respect to the permit’s pollution prevention requirements; and
- When and how to conduct inspections, record applicable findings, and take corrective actions.

Each member of the stormwater team must have easy access to an electronic or paper copy of the most updated copy of the SWPPP and its applicable portions, along with other relevant documents or information that must be kept with the SWPPP.

7. STORMWATER POLLUTION PREVENTION PLAN (SWPPP).

7.1. GENERAL REQUIREMENTS.

7.1.1. Requirement to Develop a SWPPP Prior to Submitting Your NOI.

All operators associated with a construction activity to be covered under this permit must develop a SWPPP.

You have the option of developing a group SWPPP where you are one of several operators who will be engaged in construction activities at your site. For instance, if both the owner and the general contractor of the construction site are permitted, the owner may be the party responsible for SWPPP development, and the general contractor can choose to use this same SWPPP, as long as the SWPPP addresses the general contractor's scope of construction work and obligations under this permit.

You are required to develop your site's SWPPP prior to submitting your NOI. At a minimum, your SWPPP must include the information required in Part 7.2 and as specified in other parts of the permit. You must also update the SWPPP as required in Part 7.4.

If you prepared a SWPPP for coverage under a previous version of this AgPDES permit, you must review and update your SWPPP to ensure that this permit's requirements are addressed prior to submitting your NOI.

7.2. SWPPP CONTENTS.

Your SWPPP must include the following information, at a minimum.

7.2.1. Stormwater Team.

Each operator, or group of multiple operators, must assemble a "stormwater team," which is responsible for overseeing the development of the SWPPP, any later modifications to it, and for compliance with the requirements in this permit.

The SWPPP must identify the personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities. Each member of the stormwater team must have ready access to an electronic or paper copy of applicable portions of this permit, the most updated copy of your SWPPP, and other relevant documents or information that must be kept with the SWPPP.

7.2.2. Nature of Construction Activities.

The SWPPP must describe the nature of your construction activities, including the size of the property (in acres) and the total area expected to be disturbed by the construction activities (in acres), construction support activity areas covered by this permit (both on and off the construction site, also see Part 1.3(c)), and the maximum area expected to be disturbed at any one time.

7.2.3. Emergency-Related Construction Activities.

If you are conducting earth-disturbing activities in response to a public emergency (see Part 1.2), you must document the cause of the public emergency (*e.g., natural disaster, extreme flooding conditions, etc.*), information substantiating its occurrence (*e.g., state disaster declaration or similar state or local declaration*), and a description of the construction necessary to reestablish affected public services.

7.2.4. Identification of Other Site Operators.

The SWPPP must include a list of all other operators who will be engaged in construction activities at your site, and the areas of the site over which each operator has control.

7.2.5. Sequence and Estimated Dates of Construction Activities.

The SWPPP must include a description of the intended sequence of construction activities, including a schedule of the estimated start dates and the duration of the construction activity, for the following activities:

7.2.5.1 Installation of stormwater control measures, and when they will be made operational, including an explanation of how the sequence and schedule for installation of stormwater control measures

complies with Part 2.1.1.3(a) and of any departures from manufacturer specifications pursuant to Part 2.1.1.3(b);

- 7.2.5.2 Commencement and duration of earth-disturbing activities, including clearing and grubbing, mass grading, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
- 7.2.5.3 Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;
- 7.2.5.4 Final or temporary stabilization of areas of exposed soil. The dates for stabilization must reflect the applicable deadlines to which you are subject in Part 2.2.1; and
- 7.2.5.5 Removal of temporary stormwater conveyances/channels and other stormwater control measures, removal of construction equipment and vehicles, and cessation of any pollutant-generating activities.

If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to “lock in” the operator to meeting these projections. When departures from initial projections are necessary, this should be documented in the SWPPP itself or in associated records, as appropriate.

7.2.6. Site Map.

The SWPPP must include a legible site map, or series of maps, showing the following features of your construction activity: Included in the construction activity site are any construction support activities (both on and off the construction site) covered by this permit (see Part 1.3(c)).

- 7.2.6.1 Boundaries of the property and of the locations where construction activities will occur, including:
 - a. Locations where earth-disturbing activities will occur, noting any phasing of construction activities;
 - b. Approximate slopes before and after major grading activities. Note areas of steep slopes, as defined in Appendix A;
 - c. Locations where sediment, soil, or other construction materials will be stockpiled;
 - d. Locations of any crossings of surface waters;
 - e. Designated points on the site where vehicles will exit onto paved roads;
 - f. Locations of structures and other impervious surfaces upon completion of construction; and
 - g. Locations of construction support activity areas (both on and off the construction site) covered by this permit (see Part 1.3.c).
- 7.2.6.2 Locations of all surface waters, including wetlands, that exist within or in the immediate vicinity of the site. Indicate which waterbodies are listed as impaired, and which are identified as ORW, HQW, or SWS waters;
- 7.2.6.3 The boundary lines of any natural buffers provided consistent with Part 2.1.2.1(a);
- 7.2.6.4 Areas of federally-listed critical habitat for endangered or threatened species;
- 7.2.6.5 Topography of the site, existing vegetative cover (*e.g., forest, pasture, pavement, structures*), and drainage pattern(s) of stormwater and authorized non-stormwater flow onto, over, and from the site property before and after major grading activities;
- 7.2.6.6 Stormwater and authorized non-stormwater discharge locations, including:
 - a. Locations of any storm drain inlets on the site and in the immediate vicinity of the site. The requirement to show storm drain inlets in the immediate vicinity of the site on your site map only applies to those inlets that are easily identifiable from your site or from a publicly accessible

area immediately adjacent to your site; and

- b. Locations where stormwater or allowable non-stormwater will be discharged to surface waters (including wetlands) on or near the site.

7.2.6.7 Locations of all potential pollutant-generating activities identified in Part 7.2.7;

7.2.6.8 Locations of stormwater control measures; and

7.2.6.9 Locations where polymers, flocculants, or other treatment chemicals will be used and stored.

7.2.7. Construction Site Pollutants.

The SWPPP must include the following:

7.2.7.1 A list and description of all the pollutant-generating activities on your site (e.g., paving operations, solid waste storage and disposal, dewatering operations, etc.).

7.2.7.2 For each pollutant-generating construction activity, an inventory of pollutants or pollutant constituents (e.g., *sediment, fertilizers and/or pesticides, paints, solvents, fuels*) associated with that construction activity, which could be exposed to rainfall, or snowmelt, and could be discharged from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges. You must also document any departures from the manufacturer's specifications for applying fertilizers containing nitrogen and phosphorus, as required in Part 2.3.5.1.

7.2.8. Non-Stormwater Discharges.

The SWPPP must also identify all sources of authorized non-stormwater discharges listed in Part 1.3(d).

7.2.9. Buffer Documentation.

If you are required to comply with Part 2.1.2.1 because a surface water is located within 50 feet of your construction activity's earth disturbances, you must describe which compliance alternative you have selected for your site, and comply with any additional requirements to provide documentation in Part 2.1.2.1.

7.2.10. Description of Stormwater Control Measures.

7.2.10.1 ***Stormwater Control Measures to be Used During Construction Activity.*** The SWPPP must describe all stormwater control measures that are or will be installed and maintained at your site to meet the requirements of Part 2. For each stormwater control measure, you must document:

- a. Information on the type of stormwater control measure to be installed and maintained, including design information;
- b. What specific sediment controls will be installed and made operational prior to conducting earth-disturbing activities in any given portion of your site to meet the requirement of Part 2.1.2.2(a);
- c. For exit points on your site, document stabilization techniques you will use and any additional controls that are planned to remove sediment prior to vehicle exit consistent with Part 2.1.2.3; and
- d. For linear construction activities, where you have determined that the use of perimeter controls in portions of the site is impracticable, document why you believe this to be the case (see Part 2.1.2.2(b)).
- e. If an operator determines it is infeasible to design an outlet structure that withdraws from the surface, the operator must adhere to the requirements given in 2.1.3.2.

7.2.10.2 ***Use of Treatment Chemicals.*** If you will use polymers, flocculants, or other treatment chemicals at your site, the SWPPP must include:

- a. A listing of all soil types that are expected to be exposed during construction activities and that will be discharged to locations where chemicals will be applied. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent you have this information prior to construction;
- b. A listing of all treatment chemicals to be used at the site, and why the selection of these chemicals is suited to the soil characteristics of your site;
- c. If you have been authorized by ODAFF to use cationic treatment chemicals, include the specific controls and implementation procedures designed to ensure that your use of cationic treatment chemicals will not lead to a violation of water quality standards;
- d. The dosage of all treatment chemicals you will use at the site or the methodology you will use to determine dosage;
- e. Information from any applicable Material Safety Data Sheets (MSDS);
- f. Schematic drawings of any chemically-enhanced stormwater controls or chemical treatment systems to be used for application of the treatment chemicals;
- g. A description of how chemicals will be stored consistent with Part 2.1.3.3(b);
- h. References to applicable state or local requirements affecting the use of treatment chemicals, and copies of applicable manufacturer’s specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and
- i. A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at your site.

7.2.10.3 **Stabilization Practices.** The SWPPP must describe the specific vegetative and/or non-vegetative practices that will be used to comply with the requirements in Part 2.2, including:

- a. If you will be complying with the stabilization deadlines specified in Part 2.2.1.3(a), you must indicate in your SWPPP the beginning and ending dates of the seasonally dry period and your site conditions; and
- b. If you will be complying with the stabilization deadlines specified in Part 2.2.1.3(b), you must document the circumstances that prevent you from meeting the deadlines specified in Parts 2.2.1.1 and/or 2.2.1.2.

7.2.11. Pollution Prevention Procedures.

7.2.11.1 **Spill Prevention and Response Procedures.** The SWPPP must describe procedures that you will follow to prevent and respond to spills and leaks consistent with Part 2.3, including:

- a. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
- b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Part 2.3.4 and established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available.

You may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that you keep a copy of that other plan onsite.

Even if you already have an SPCC or other spill prevention plan in existence, your plans will only be considered adequate if they meet all of the requirements of this Part, either as part of your existing plan or supplemented as part of the SWPPP.

- 7.2.11.2 **Waste Management Procedures.** The SWPPP must describe procedures for how you will handle, store, and dispose of all wastes generated at your site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

7.2.12. Procedures for Inspection, Maintenance, and Corrective Action.

The SWPPP must describe the procedures you will follow for maintaining your stormwater control measures, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Part 2.1.1.4, Part 2.3.2, Part 2.3.3, Part 4, and Part 5 of the permit. The following information must also be included in your SWPPP:

- 7.2.12.1 Personnel responsible for conducting inspections;
- 7.2.12.2 The inspection schedule you will be following, which is based on whether your site is subject to Part 4.1.2 or Part 4.1.3, and whether your site qualifies for any of the allowances for reduced inspection frequencies in Part 4.1.4. If you will be conducting inspections in accordance with the inspection schedule in Part 4.1.2.2 or Part 4.1.3, the location of the rain gauge on your site or the address of the weather station you will be using to obtain rainfall data;
- 7.2.12.3 If you will be reducing your inspection frequency in accordance with Part 4.1.4.2, the beginning and ending dates of the seasonally-defined arid period for your area or the valid period of drought. If you will be reducing your inspection frequency in accordance with Part 4.1.4.3, the beginning and ending dates of frozen conditions on your site; and
- 7.2.12.4 Any inspection or maintenance checklists or other forms that will be used.

7.2.13. Staff Training.

The SWPPP must include documentation that the required personnel were trained in accordance with Part 6.

7.2.14. Documentation of Compliance with Other Federal Requirements.

- 7.2.14.1 *Endangered Species Act.* The SWPPP must include documentation supporting your determination with respect to Part 1.1(e) and Appendix D.
- 7.2.14.2 *Historic Properties.* The SWPPP must include documentation required by Appendix E in relation to potential impacts to historic properties.
- 7.2.14.3 *Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls.* If you are using any of the following stormwater controls at your site, as they are described below, you must document any contact you have had with the applicable state agency or EPA Regional Office responsible for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR Parts 144 -147. Such controls would generally be considered Class V UIC wells:
- Infiltration trenches (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);
 - Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and
 - Drywells, seepage pits, or improved sinkholes (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system). For state UIC program contacts, refer to the following EPA website: <http://water.epa.gov/type/groundwater/uic/wherelive.cfm>.

7.2.15. SWPPP Certification.

You must sign and date your SWPPP in accordance with Appendix F, Section K.

7.2.16. Post-Authorization Additions to the SWPPP.

Once you are notified of your coverage under this permit, you must include the following documents as part of your SWPPP:

- 7.2.16.1 A copy of your NOI submitted to ODAFF along with any correspondence exchanged between you and ODAFF related to coverage under this permit;
- 7.2.16.2 A copy of the acknowledgment letter you receive from ODAFF or eNOI system assigning your permit number;
- 7.2.16.3 A copy of this permit (an electronic copy easily available to the stormwater team is also acceptable).

7.3. ON-SITE AVAILABILITY OF YOUR SWPPP.

You are required to keep a current copy of your SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by ODAFF; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS).

ODAFF may provide access to portions of your SWPPP to a member of the public upon request.

If an onsite location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site.

7.4. REQUIRED SWPPP MODIFICATIONS.

7.4.1. List of Conditions Requiring SWPPP Modification.

You must modify your SWPPP, including the site map(s), in response to any of the following conditions:

- 7.4.1.1 Whenever new operators become active in construction activities on your site, or you make changes to your construction plans, stormwater control measures, pollution prevention measures, or other activities at your site that are no longer accurately reflected in your SWPPP. This includes changes made in response to corrective actions triggered under Part 5. You do not need to modify your SWPPP if the estimated dates in Part 7.2.5 change during the course of construction;
- 7.4.1.2 To reflect areas on your site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
- 7.4.1.3 If inspections or investigations by site staff, or by local, state, tribal, or federal officials determine that SWPPP modifications are necessary for compliance with this permit;
- 7.4.1.4 Where ODAFF determines it is necessary to impose additional requirements on your discharge, the following must be included in your SWPPP:
 - a. A copy of any correspondence describing such requirements; and
 - b. A description of the stormwater control measures that will be used to meet such requirements.
- 7.4.1.5 To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater control measures implemented at the site; and
- 7.4.1.6 If applicable, if a change in chemical treatment systems or chemically-enhanced stormwater control is made, including use of a different treatment chemical, different dosage rate, or different area of application.

7.4.2. Deadlines for SWPPP Modifications.

You must complete required revisions to the SWPPP within 7 calendar days following the occurrence of any

of the conditions listed in Part 7.4.1.

7.4.3. SWPPP Modification Records.

You are required to maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Part 7.2.15 above) and a brief summary of all changes.

7.4.4. Certification Requirements.

All modifications made to the SWPPP consistent with Part 7.4 must be authorized by a person identified in Appendix F, Section K.

7.4.5. Required Notice to Other Operators.

Upon determining that a modification to your SWPPP is required, if there are multiple operators covered under this permit, you must immediately notify any operators who may be impacted by the change to the SWPPP.

8. HOW TO TERMINATE COVERAGE.

Until you terminate coverage under this permit, you are required to comply with all conditions and effluent limitations in the permit. To terminate permit coverage, you must submit to ODAFF a complete and accurate Notice of Termination (NOT), which certifies that you have met the requirements for terminating in Part 8.

8.1. MINIMUM INFORMATION REQUIRED IN NOT.

You will be required to provide the following in your NOT:

- 8.1.1.** AgPDES permit number provided by ODAFF when you received coverage under this permit;
- 8.1.2.** Basis for submission of the NOT (see Part 8.2);
- 8.1.3.** Operator contact information;
- 8.1.4.** Name of construction activity and address (or a description of location if no street address is available); and
- 8.1.5.** NOT certification.

8.2. CONDITIONS FOR TERMINATING PERMIT COVERAGE.

You may terminate permit coverage only if one of the following conditions occurs at your site:

8.2.1. You have completed all earth-disturbing activities at your site and, if applicable, construction support activities covered by this permit (see Part 1.3.c), and you have met the following requirements:

- 8.2.1.1** For any areas that (1) were disturbed during construction, (2) are not covered over by permanent structures, and (3) over which you had control during the construction activities, you have met the requirements for final vegetative or non-vegetative stabilization in Part 2.2.2;
- 8.2.1.2** You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long-term use following your termination of permit coverage;
- 8.2.1.3** You have removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable; and
- 8.2.1.4** You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following your termination of permit coverage; or

8.2.2. You have transferred control of all areas of the site for which you are responsible under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit; or

8.2.3. Coverage under an individual or alternative general NPDES permit has been obtained.

8.3. HOW TO SUBMIT YOUR NOT.

If submitting the NOT prior to December 21, 2020, the CAFO operator must prepare and submit the NOT using ODAFF form AEMS094 available on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>). If submitting the NOT on or after December 21, 2020, the operator must prepare and submit the NOT using ODAFF's electronic Notice of Intent System (eNOI) on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the operator has obtained a waiver from the requirements to use eNOI for submission of the NOT. Operators waived from the requirement to use eNOI for NOT submission must certify on the paper NOT submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper NOT form and then provide a basis for this determination.

8.4. DEADLINE FOR SUBMITTING NOTS.

You must submit your NOT within 30 calendar days after any one of the triggering conditions in Part 8.2 occur.

8.5. EFFECTIVE DATE OF TERMINATION OF COVERAGE.

Your authorization to discharge under this permit terminates at midnight of the calendar day that a complete NOT is processed.

Appendix A - Definitions and Acronyms

Definitions

Action Area – all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. See 50 CFR 402. For the purposes of this permit and for application of the Endangered Species Act requirements, the following areas are included in the definition of action area:

- The areas on the construction site where stormwater discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes stormwater to flow into a small wetland or other habitat that is on the site that contains listed species.)
- The areas where stormwater discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where stormwater flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as listed amphibians) are found in the ditch, swale, or gully.)
- The areas where stormwater from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where stormwater from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- The areas where stormwater controls will be constructed and operated, including any areas where stormwater flows to and from the stormwater controls. (Example: Where a stormwater retention pond would be built.)
- The areas upstream and/or downstream from the stormwater discharge into a stream segment that may be affected by these discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

Agricultural Land - cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

Antidegradation Policy – Oklahoma’s tiered program is designed to protect, maintain, and improve waters of the state for the benefit of all the citizens. Refer to Oklahoma’s Water Quality Standards (OAC 785:45) for the antidegradation policy.

1. High Quality Waters (HQW) are waters of the state that possess existing water quality which exceeds those levels necessary to support propagation of fishes, shellfishes, wildlife, and recreation in and on the water. These waters include those designated “HQW” in Appendix A of Oklahoma’s Water Quality Standards (OAC 785:45). These high quality waters shall be maintained and protected.
2. Sensitive Public and Private Water Supplies (SWS) are certain public and private water supplies that possess conditions that make them more susceptible to pollution events and require additional protection. These sensitive waters supplies shall be maintained and protected.
3. Outstanding Resource Waters (ORW) are waters of the state that constitute an outstanding resource or have exceptional recreational and/or ecological significance. No degradation of water quality shall be allowed in these waters.

Arid Areas – areas with an average annual rainfall of 0 to 10 inches.

Bank (e.g., stream bank or river bank) – the rising ground bordering the channel of a water of the U.S.

Bluff – a steep headland, promontory, riverbank, or cliff.

Borrow Areas – the areas where materials are dug for use as fill, either onsite or off-site.

Bypass – the intentional diversion of waste streams from any portion of a treatment facility. See 40 CFR 122.41(m)(1)(i).

Cationic Treatment Chemical – polymers, flocculants, or other chemicals that contain an overall positive charge. Among other things, they are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other soil materials and causing them to bind together and settle out. Common examples of cationic treatment chemicals are chitosan and cationic PAM.

Commencement of Earth-Disturbing Activities - the initial disturbance of soils (or ‘breaking ground’) associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).

Commencement of Pollutant-Generating Activities – at construction sites (for the purposes of this permit) occurs in any of the following circumstances:

- Clearing, grubbing, grading, and excavation has begun;
- Raw materials related to your construction activity, such as building materials or products, landscape materials, fertilizers, pesticides, herbicides, detergents, fuels, oils, or other chemicals have been placed at your site;
- Use of authorized non-stormwater for washout activities, or dewatering activities, have begun; or
- Any other activity has begun that causes the generation of or the potential generation of pollutants.

Construction Activities – earth-disturbing activities, such as the clearing, grading, and excavation of land, as well as other earth-disturbing activities.

Construction and Development Effluent Limitations and New Source Performance Standards (C&D Rule) – as published in 40 CFR § 450 is the regulation requiring effluent limitations guidelines (ELG’s) and new source performance standards (NSPS) for controlling the discharge of pollutants from construction sites.

Construction Site – the land or water area where construction activities will occur and where stormwater controls will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether. The construction site is often a smaller subset of the lot or parcel within which the project is taking place.

Construction Support Activities – a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

Construction Waste – discarded material (such as packaging materials, scrap construction materials, masonry products, timber, steel, pipe, and electrical cuttings, plastics, and styrofoam).

Conveyance Channel – a temporary or permanent waterway designed and installed to safely convey stormwater flow within and out of a construction site.

Corrective Action – for the purposes of the permit, any action taken to (1) repair, modify, or replace any stormwater control used at the site; (2) clean up and dispose of spills, releases, or other deposits found on the site; and (3) remedy a permit violation.

Critical Habitat – as defined in the Endangered Species Act at 16 U.S.C. 1531 for a threatened or endangered species, (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

CWA – the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

Dewatering – the act of draining rainwater and/or groundwater from building foundations, vaults, and trenches.

Discharge – when used without qualification, means the “discharge of a pollutant.”

Discharge of a Pollutant – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. See 40 CFR 122.2.

Discharge Point – for the purposes of this permit, the location where collected and concentrated stormwater flows are discharged from the construction site.

Discharge-Related Activity – activities that cause, contribute to, or result in stormwater and allowable non-stormwater point source discharges, and measures such as the siting, construction, and operation of stormwater controls to control, reduce, or prevent pollutants from being discharged.

Discharge to an Impaired Water – for the purposes of this permit, a discharge to an impaired water occurs if the first water of the U.S. to which you discharge is identified by ODAFF pursuant to Section 303(d) of the Clean Water Act as not meeting an applicable water quality standard, or is included in an approved or established total maximum daily load (TMDL). For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first water of the U.S. that receives the stormwater discharge from the storm sewer system.

Domestic Waste – for the purposes of this permit, typical household trash, garbage or rubbish items generated by construction activities.

Drainageway – an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water.

Drought-Stricken Area – for the purposes of this permit, an area in which the National Oceanic and Atmospheric Administration’s U.S. Seasonal Drought Outlook indicates for the period during which the construction will occur that any of the following conditions are likely: (1) “Drought persists”, (2) “Drought remains but improves”, (3) “Drought removal likely”, or (4) “Drought development likely”. See <http://www.cpc.ncep.noaa.gov>.

Earth-Disturbing Activity or Land-Disturbing Activity – actions taken to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of top soils.

Effective Operating Condition – for the purposes of this permit, a stormwater control is kept in effective operating condition if it has been implemented and maintained in such a manner that it is working as designed to minimize pollutant discharges.

Effluent Limitations – for the purposes of this permit, any of the Part 2 or Part 3 requirements.

Effluent Limitations Guideline (ELG) – defined in 40 CFR § 122.2 as a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.

Electronic Notice of Intent (eNOI) – ODAFF’s online system for submitting electronic Construction General Permit forms.

Eligible – for the purposes of this permit, refers to stormwater and allowable non-stormwater discharges that are authorized for coverage under this general permit.

Emergency-Related Project – a project initiated in response to a public emergency (e.g., natural disaster, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.

Endangered Species – defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

Excursion – a measured value that exceeds a specified limit.

Existing Project – a construction project that commenced construction activities prior to November 21, 2017.

Exit Points – any points of egress from the construction site to be used by vehicles and equipment during construction activities.

Exposed Soils – for the purposes of this permit, soils that as a result of earth-disturbing activities are left open to the elements.

Federal Operator – an entity that meets the definition of “Operator” in this permit and is either any department, agency or instrumentality of the executive, legislative, and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, performing construction activity for any such department, agency, or instrumentality.

Final Stabilization – on areas not covered by permanent structures, either (1) vegetation has been established, or for arid or semi-arid areas, will be established that provides a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the natural background vegetative cover, or (2) non-vegetative stabilization methods have been implemented to provide effective cover for exposed portions of the site.

Hazardous Materials or Hazardous Substances or Hazardous or Toxic Waste – for the purposes of this permit, any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment. See also 40 CFR §261.2.

Historic Property – as defined in the National Historic Preservation Act regulations means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe and that meet the National Register criteria.

Impaired Water or Water Quality Impaired Water or Water Quality Limited Segment – for the purposes of this permit, waters identified as impaired on the appropriate CWA Section 303(d) list, or waters with an approved or established TMDL. Your construction site will be considered to discharge to an impaired water if the first water of the U.S. to which you discharge is identified by ODAFF pursuant to Section 303(d) of the CWA as not meeting an applicable water quality standard, or is included in an approved or established total maximum daily load (TMDL). For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

Impervious Surface – for the purpose of this permit, any land surface with a low or no capacity for soil infiltration including, but not limited to, pavement, sidewalks, parking areas and driveways, packed gravel or soil, or rooftops.

Indian Country or Indian Country Lands – defined at 40 CFR §122.2 as:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

Infeasible – for the purpose of this permit, infeasible means not technologically possible or not economically practicable and achievable in light of best industry practices. ODAFF notes that it does not intend for any permit requirement to conflict with state water rights law.

Install or Installation – when used in connection with stormwater controls, to connect or set in position stormwater controls to make them operational.

Intermittent (or Seasonal) Stream – one which flows at certain times of the year when groundwater provides water for stream flow, as well as during and immediately after some precipitation events or snowmelt.

Jar test – a test designed to simulate full-scale coagulation/flocculation/sedimentation water treatment processes by taking into account the possible conditions.

Landward – positioned or located away from a waterbody, and towards the land.

Level Spreader – a temporary stormwater control used to spread stormwater flow uniformly over the ground surface as sheet flow to prevent concentrated, erosive flows from occurring.

Linear Project – includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

Minimize – to reduce and/or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

Municipal Separate Storm Sewer System or MS4 – defined at 40 CFR §122.26(b)(8) as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR§122.2.

National Pollutant Discharge Elimination System (NPDES) – defined at 40 CFR §122.2 as the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an ‘approved program.’

Native Topsoil – the uppermost layer of naturally occurring soil for a particular area, and is often rich in organic matter, biological activity, and nutrients.

Native Vegetation – the species of plants that have developed for a particular region or ecosystem and are considered endemic to that region or ecosystem.

Natural Buffer – for the purposes of this permit, an area of undisturbed natural cover surrounding surface waters within which construction activities are restricted. Natural cover includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

Natural Vegetation – vegetation that occurs spontaneously without regular management, maintenance or species introductions, removals, and that generally has a strong component of native species.

New Operator of a New or Existing Project – an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction project.

New Project – a construction project that commences construction activities on or after November 21, 2017.

New Source – for the purpose of this permit, a construction project that commenced construction activities after February 1, 2010.

New Source Performance Standards (NSPS) – for the purposes of this permit, NSPS are technology-based standards that apply to construction sites that are new sources under 40 CFR 450.24.

Non-Stormwater Discharges – discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

Non-Turbid – a discharge that does not cause or contribute to an exceedence of turbidity-related water quality standards.

Notice of Intent (NOI) – the form (electronic or paper) required for authorization of coverage under the Construction General Permit.

Notice of Termination (NOT) – the form (electronic or paper) required for terminating coverage under the Construction General Permit.

Operational – for the purpose of this permit, stormwater controls are made “operational” when they have been installed and implemented, are functioning as designed, and are properly maintained.

Operator – for the purpose of this permit and in the context of stormwater discharges associated with construction activity, any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

This definition is provided to inform permittees of ODAFF’s interpretation of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of stormwater associated with construction activity.

Ordinary High Water Mark – the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris.

Outfall – see “Discharge Point.”

Permitting Authority – for the purposes of this permit this means ODAFF or an authorized representative.

Point(s) of Discharge – see “Discharge Point.”

Point Source – any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or

may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant – defined at 40 CFR §122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Pollutant-Generating Activities – at construction sites (for the purposes of this permit), those activities that lead to or could lead to the generation of pollutants, either as a result of earth- disturbance or a related support activity. Some of the types of pollutants that are typically found at construction sites are:

- sediment;
- nutrients;
- heavy metals;
- pesticides and herbicides;
- oil and grease;
- bacteria and viruses;
- trash, debris, and solids;
- treatment polymers; and
- any other toxic chemicals.

Pollution Prevention Measures – stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

Polymers – for the purposes of this permit, coagulants and flocculants used to control erosion on soil or to enhance the sediment removal capabilities of sediment traps or basins. Common construction site polymers include polyacrylamide (PAM), chitosan, alum, polyaluminum chloride, and gypsum.

Prohibited Discharges – discharges that are not allowed under this permit, including:

1. Wastewater from washout of concrete;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
4. Soaps or solvents used in vehicle and equipment washing;
5. Toxic or hazardous substances from a spill or other release; and
6. Waste, garbage, floatable debris, construction debris, and sanitary waste from pollutant-generating activities.

Provisionally Covered Under this Permit – for the purposes of this permit, ODAFF provides temporary coverage under this permit for emergency-related projects prior to receipt of a complete and accurate NOI. Discharges from earth-disturbing activities associated with the emergency-related projects are subject to the terms and conditions of the permit during the period of temporary coverage.

Receiving Water – a “Water of the United States” as defined in 40 CFR §122.2 into which the regulated stormwater discharges.

Run-On – sources of stormwater that drain from land located upslope or upstream from the regulated site in question.

Semi-Arid Areas – areas with an average annual rainfall of 10 to 20 inches.

Site – for construction activities, the land or water area where earth-disturbing activities take place, including construction support activities.

Small Construction Activity – defined at 40 CFR §122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

Small Residential Lot – for the purpose of this permit, a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

Snowmelt – the conversion of snow into overland stormwater and groundwater flow as a result of warmer temperatures.

Spill – for the purpose of this permit, the release of a hazardous or toxic substance from its container or containment.

Stabilization – the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process.

Steep Slopes – where a state, Tribe, local government, or industry technical manual (e.g., stormwater BMP manual) has defined what is to be considered a “steep slope”, this permit’s definition automatically adopts that definition. Where no such definition exists, steep slopes are automatically defined as those that are 15 percent or greater in grade.

Storm Sewer System – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) designed or used for collecting or conveying stormwater.

Stormwater – stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Control Measure - refers to any stormwater control, BMP, or other method (including narrative effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the United States.

Stormwater Controls – see “Stormwater Control Measure.”

Stormwater Discharge Associated with Construction Activity – as used in this permit, a discharge of pollutants in stormwater to waters of the United States from areas where land- disturbing activities (e.g., clearing, grading, or excavation) occur, or where construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck chute washdown, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants), are located.

Stormwater Inlet – a structure placed below grade to conduct water used to collect stormwater runoff for conveyance purposes.

Stormwater Team – the group of individuals responsible for oversight of the development and modifications of the SWPPP, and oversight of compliance with the permit requirements. The individuals on the “Stormwater Team” must be identified in the SWPPP.

Storm Event – a precipitation event that results in a measurable amount of precipitation.

Storm Sewer – a system of pipes (separate from sanitary sewers) that carries stormwater runoff from buildings and land surfaces.

Subcontractor – for the purposes of this permit, an individual or company that takes a portion of a contract from the general contractor or from another subcontractor.

Surface Water – a “Water of the United States” as defined in 40 CFR §122.2.

SWPPP (Stormwater Pollution Prevention Plan) – a site-specific, written document that, among other things: (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater control measures to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this general permit.

Temporary Stabilization – a condition where exposed soils or disturbed areas are provided a temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.

Thawing Conditions – for the purposes of this permit, thawing conditions are expected based on the historical likelihood of two or more days with daytime temperatures greater than 32°F. This date can be determined by looking at historical weather data. Note: the estimation of thawing conditions is for planning purposes only. During construction the permittee will be required to conduct site inspections based upon actual conditions (i.e., if thawing conditions occur sooner than expected, the permittee will be required to conduct inspections at the regular frequency).

Threatened Species – defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Total Maximum Daily Load or TMDL – the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Toxic Waste – see “Hazardous Materials.”

Turbidity – a condition of water quality characterized by the presence of suspended solids and/or organic material.

Uncontaminated Discharge – a discharge that does not cause or contribute to an exceedence of applicable water quality standards.

Upland - the dry land area above and ‘landward’ of the ordinary high water mark.

Upset – Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. See 40 CFR 122.41(n)(1).

Water-Dependent Structures – structures or facilities that are required to be located directly adjacent to a waterbody or wetland, such as a marina, pier, boat ramp, etc.

Water Quality Standards – defined in OAC 785:45, these are provisions of state law which consist of a designated use or uses for the waters of the United States, water quality criteria for such waters based upon such uses, and an antidegradation policy to protect high-quality waters. Water quality standards protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

Waters of the United States – defined at 40 CFR §122.2 as:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act

jurisdiction remains with ODAFF. In applying this definition, ODAFF will consider applicable Court cases and current guidance.

Wetland – those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. On-site evaluations are typically required to confirm the presence and boundaries of wetlands.

Work day – for the purposes of this permit, a work day is a calendar day on which construction activities will take place.

Acronyms

C&D – Construction & Development

CGP – Construction General Permit

CFR – Code of Federal Regulations

CWA – Clean Water Act

eNOI – Electronic Notice of Intent

EPA – United States Environmental Protection Agency

ESA – Endangered Species Act

FWS – United States Fish and Wildlife Service

MS4 – Municipal Separate Storm Sewer System

MSGP – Multi-Sector General Permit

NOI – Notice of Intent

NOT – Notice of Termination

NPDES – National Pollutant Discharge Elimination System

NRC – National Response Center

NRCS – National Resources Conservation Service

POTW – Publicly Owned Treatment Works

SPCC – Spill Prevention Control and Countermeasure

SWPPP – Stormwater Pollution Prevention Plan

TMDL – Total Maximum Daily Load

USGS – United States Geological Survey

WQS – Water Quality Standard

Appendix B - Small Construction Waivers and Instructions

These waivers are only available to stormwater discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each operator, otherwise needing permit coverage, must notify ODAFF of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

B.1 Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The operator must certify to ODAFF that construction activity will occur only when the rainfall erosivity factor is less than 5. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the construction general permit have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The operator must submit a waiver certification to ODAFF prior to commencing construction activities.

Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.

EPA has developed an online rainfall erosivity calculator to help small construction sites determine potential eligibility for the rainfall erosivity waiver. You can access the calculator from EPA's website at: <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites>. The R factor can easily be calculated by using the construction site latitude/longitude or address and estimated start and end dates of construction. This calculator may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting site stabilization will allow you to qualify for the waiver. Use this online calculator or the Construction Rainfall Erosivity Waiver Fact Sheet (<http://www.epa.gov/npdes/construction-rainfall-erosivity-waiver-fact-sheet>) to assist in determining the R Factor for your small construction site.

You can access the waiver certification form from ODAFF's website at www.ag.ok.gov/aems/agpdes.htm.

Note: If the R factor is 5 or greater, you cannot apply for the rainfall erosivity waiver, and must apply for AgPDES permit coverage, unless you qualify for the Water Quality Waiver as described in section B below.

If your small construction project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five (5), you must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of your records. The new waiver certification must be submitted prior to the

projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is 5 or above, you must obtain AgPDES permit coverage.

B.2 TMDL Waiver

This waiver is available if there is an approved TMDL that addresses the pollutant(s) of concern for the impaired water and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been approved is available from the Oklahoma Department of Environmental Quality (ODEQ) online at www.deq.state.ok.us/wqdnew/tmdl/index.html.

If you are the operator of the construction activity and eligible for a waiver based on compliance with an approved TMDL, you must provide the following information on the Waiver Certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. The name and approval date of the TMDL;
6. A statement, signed and dated by an authorized representative as provided in Appendix F, Section K, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the TMDL.

B.3 Equivalent Analysis Waiver

This waiver is available for non-impaired waters only. The operator can develop an equivalent analysis that determines allocations for his/her small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the waterbody(s) that would be receiving stormwater discharges from your construction project;
5. Your equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix F, Section K, that certifies that the construction activity will take place and that the stormwater discharges will occur, within the drainage area addressed by the equivalent analysis.

B.4 Waiver Deadlines and Submissions

1. Waiver certifications must be submitted prior to commencement of construction activities.
2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until ODAFF approves your request. As such, you may not commence construction activities until receipt of approval from ODAFF.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. ODAFF reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of stormwater associated with small construction activity, provided you qualify for the waiver. Any discharge of stormwater associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, ODAFF reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. ODAFF may notify any operator covered by a waiver that they must apply for a permit. ODAFF may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition ODAFF to take action under this provision by submitting written notice along with supporting justification.

If submitting the LEW or other waivers from stormwater controls prior to December 21, 2020, the CAFO operator must prepare and submit the LEW or other waiver documents using ODAFF Form AEMS148 available on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>). If submitting these documents on or after December 21, 2020, the operator must prepare and submit the documents using ODAFF's electronic Notice of Intent System (eNOI) on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the operator has obtained a waiver from the requirements to use eNOI for submission of the LEW or other waiver related documents. Operators waived from the requirement to use eNOI for document submission must certify on the paper documents submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper LEW form or other waiver documents and then provide a basis for this determination.

Appendix C – Low Erosivity Waiver Form AEMS148



Low Erosivity Waiver Certification

Oklahoma Department of Agriculture, Food, and Forestry

FORM
AEMS 148
03/2017

Low Erosivity Waiver (LEW) for Storm Water Discharges Associated with Agricultural Construction Activity Under the AgPDES 2017 Construction General Permit (CGP)

This form provides notice to ODAFF that you, the project operator identified in Section I of this form, are certifying that construction activity at the project site identified in Section II, will take place during a period when the rainfall erosivity factor is less than five [40 CFR 122.26(b)(15)(i)(A)]. If a complete and accurate form is submitted and approved by ODAFF, the otherwise applicable AgPDES permitting requirements for stormwater discharges associated with construction activity are waived. If granted, a waiver is applicable for the period beginning on the date this Low Erosivity Waiver Form is sent to ODAFF (e.g., postmark date), or the project start date specified in Part III of this form, whichever shall occur last, and ending on the project completion date specified in Part III. Refer to the instructions at the end of this form for more details.

Electronic Submission Waiver (skip if submitting through ODAFF's eNOI system or if eNOI is not available)

I hereby acknowledge my waiver request from the use of ODAFF's electronic Notice of Intent system (eNOI) because my use of eNOI will incur undue burden or expense over my use of this paper LEW form, or if eNOI is otherwise unavailable.

Briefly describe the reason why use of the electronic system causes undue burden or expense.

I. Facility Owner/Operator Information (If you are a Co-permittee check this box)

Name: _____ Phone: (____) _____

Fax: (____) _____

Address: _____ Status of Owner/Operator: _____

City: _____ State: _____ Zip Code: _____ E-mail: _____

II. Construction Project/Site Information

Name of the project _____

Address _____ City _____ County _____ ZIP Code _____

Telephone No. (____) _____ Location: Latitude _____ Longitude _____

Legal Description _____

Latitude and Longitude (use one of the following formats)

1. Degrees, minutes, seconds (e.g., 76°, 30', 45") Latitude: ____° ____' ____" N Longitude: ____° ____' ____" W

2. Degrees, minutes with 2 decimal places (e.g., 76° 30.75') Latitude: ____° ____' ____" N Longitude: ____° ____' ____" W

3. Degrees, minutes with 4 decimal places (e.g., 76.5125°) Latitude: ____° ____' ____" N Longitude: ____° ____' ____" W

Estimated area to be disturbed to the nearest quarter acre _____

Is this facility/site on Indian Country land? No Yes (if Yes See Instructions)

III. Rainfall Erosivity Factor Calculation Data

Project start date: ____ / ____ / _____ Project Completion Date: ____ / ____ / _____

Are interim non-vegetative site stabilization measures used to establish the project completion date for purposes of obtaining this waiver? Yes No

Rainfall erosivity factor (R factor): ____ . ____

Note: To qualify for this waiver, the construction activity must take place during a period when the R factor is less than five.

Rainfall erosivity factor was calculated by using: Online Calculator EPA Fact Sheet 3-1 USDA Handbook 703

IV. Certification

I certify under penalty of law that: (1) construction activity at the project or site specified in Part II shall disturb less than five acres and shall take place during a period when the rainfall erosivity factor is less than five, (2) final stabilization will be completed as defined in the Construction General Permit, and (3) this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. Further, if interim non-vegetative measures are used to establish the end of the construction period for the purposes of obtaining this waiver, I commit to periodically inspect and properly maintain the area until the criteria for final vegetative stabilization have been met.

Name (Please Print): _____ Date: _____

Signature: _____ Title _____

Instructions

Low Erosivity Waiver Certification

Who May Qualify for a Low Erosivity Waiver

Under the Agriculture Pollutant Discharge Elimination System (AgPDES) Program, operators of agricultural construction projects that result in land disturbances equal to or greater than one acre, are required to obtain coverage under an AgPDES permit for stormwater discharges associated with construction activity. ODAFF may waive the otherwise applicable permit requirements for stormwater discharges from construction activities that disturb less than five acres if the construction activity will take place during a period when the rainfall erosivity factor (R factor) is less than five. More information on the low erosivity waiver is available on the web in the Construction Rainfall Erosivity Waiver Fact Sheet at <https://www.epa.gov/npdes/construction-rainfall-erosivity-waiver-fact-sheet>. For questions related to completion of this form, you may contact ODAFF at (405) 522-5495.

Completing the Form

Type or print using uppercase letters in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response.

Section I. Operator Information

Each legal entity that meets ODAFF's definition of "operator" (see definitions in Appendix A of ODAFF's AgPDES Construction General Permit) and that meets the eligibility conditions for the low erosivity waiver must file this form to have the permit requirements waived. The operator is any party associated with a construction activity that meets either of the following two criteria: (1) the party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit). It is possible that there will be more than one operator at a site and, in such cases, each entity that meets the operator definition must complete a Low Erosivity Waiver Certification. Provide the legal name of your firm, public organization, or other entity that operates the project described in this waiver certification. Usually this will be a company or organization's name but for construction activities undertaken by you as an individual, this should be your name. Enter the operator's complete mailing address and name of contact person, telephone number and email who can answer questions about the site (e.g., a project or site manager). Optional: to facilitate communication, provide a fax number for the contact person.

To determine whether ODAFF is the permitting authority for the construction project, and thus has authority to waive the otherwise applicable requirements of the Construction General Permit, it is necessary to know whether the project is located in Indian country.

Section II. Construction Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project lacks a street address, indicate the general location of the site (e.g., intersection of State Highways 61 and 34).

The applicant must also provide the latitude and longitude of the approximate center of the project/site using one of three formats given in the form. The latitude and longitude of your facility can be determined from several sources, including global positioning system (GPS) receivers, U.S. Geological Survey (USGS) topographic or quadrangle maps, and others.

Enter the area (estimated to the nearest quarter acre) to be disturbed including, but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Note: 1 acre = 43,560 sq. ft.

Section III. Rainfall Erosivity Factor Calculation Data

The construction period begins with the initial earth disturbance and ends with final site stabilization. To qualify for this waiver, the rainfall erosivity factor for the project must be less than five during the entire construction period. Specify the construction period by entering the project start date (date of initial earth disturbance) and project completion date (date of final site stabilization). For example, a grading contractor that is operating on-site for only one week during a nine month construction project, must enter the start date and completion date of the entire nine month construction period.

ODAFF believes, where the environmental threat is low (i.e., in arid and semi-arid climates), that "final stabilization" can include techniques that employ re-vegetation combined with other stabilization measures, consisting of temporary degradable rolled erosion control products, also known as "erosion control blankets" (ECBs). With proper selection, design, and installation of the combination re-vegetation/ECB technique in arid or semi-arid areas, an operator can be considered to have achieved final stabilization upon completion of the installation process. Note that if more than three years is required to establish 70 percent of the natural vegetative cover, this technique cannot be used or cited for fulfillment of the final stabilization requirement. If your waiver is based on use of interim non-vegetative stabilization measures, such as erosion control blankets, to establish the end of the construction period, you must indicate so on this form. In doing so, you must commit and certify (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization, as defined in the Construction General Permit, have been met.

The rainfall erosivity factor "R" is determined in accordance with the U.S. Department of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE), Chapter 2 pages 21-64, dated January 1997. EPA's Construction Rainfall Erosivity Waiver Fact Sheet (EPA 833-F-00-014), available online at <https://www.epa.gov/npdes/construction-rainfall-erosivity-waiver-fact-sheet>, defines rainfall erosivity and provides numerical examples showing how to calculate your rainfall erosivity factor. You may use the fact sheet approach or the online rainfall erosivity factor calculator available at: <https://www.epa.gov/npdes/rainfall-erosivity-factor-calculator-small-construction-sites> to calculate your rainfall erosivity factor for your project.

If the R factor is five or greater during the project's construction period, you must have or obtain coverage under an AgPDES stormwater permit. If the project was eligible for the waiver during the original construction period, but the construction activity will extend past the project completion date specified in the Low Erosivity Waiver Certification, the operator must recalculate the R factor using the original start date and a new project completion date. If the recalculated R factor is still less than five, a new waiver certification form must be submitted before the end of the original construction period. If the new R factor is five or greater, the operator must submit a Notice of Intent to be covered by the Construction General Permit before the original project completion date. Prior to December 21, 2020, the Notice of Intent (NOI) may be submitted to the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) Agriculture Environmental Management Services (AEMS) Division using form AEMS093, which can be found at www.ag.ok.gov/aems/agpdes.htm. After December 21, 2020, The NOI must be submitted electronically using ODAFF's eNOI system at www.ag.ok.gov/aems/agpdes.htm.

Section IV. Operator Certification

All Low Erosivity Waiver Certification forms must be signed as follows:

For a corporation: By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (i) president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public facility: By either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Secretary of Agriculture).

Include the name, title, and email address of the person signing the form and the signature date. An unsigned or undated Low Erosivity Waiver Certification will not be considered valid.

Where to File This Form

If submitting the Low Erosivity Waiver Form (LEW) prior to December 21, 2020, the CAFO operator must prepare and submit the LEW using ODAFF form AEMS148 available on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>). If submitting the LEW on or after December 21, 2020, the operator must prepare and submit the LEW using ODAFF's electronic Notice of Intent System (eNOI) on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the operator has obtained a waiver from the requirements to use eNOI for submission of the LEW. Operators waived from the requirement to use eNOI for LEW submission must certify on the paper LEW submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper LEW form and provide documentation of reasoning used for this determination. Paper LEW forms must be sent to the following address:

Oklahoma Department of Agriculture, Food, and Forestry
AEMS Division
PO Box 528804
Oklahoma City, OK 73152-8804

Appendix D - Endangered Species Act Requirements

The purpose of this guidance is to assist you in complying with the requirements in Part 1.1.e of the permit requiring you to demonstrate that you meet one of the criteria listed in this appendix with respect to the protection of any and all species that are federally-listed as endangered or threatened under the Endangered Species Act (ESA) or of habitat that is federally-designated as “critical habitat” under the ESA in order to be eligible for coverage under this permit.

This guidance provides you information on the following:

- **Section D.1:** ESA Eligibility Criteria
- **Section D.2:** Guidance for Determining Which ESA Criteria Applies

D.1 ESA Eligibility Criteria

You must certify in your NOI that you meet one of the eligibility criteria listed below in order to be eligible for coverage under this permit. You must also specify in the NOI the basis for your selection of the applicable eligibility criterion.

Note: (1) Regardless of the criterion selected, you must provide documentation in your SWPPP that is sufficient to support your determination that you satisfy the requirements of the particular criterion. (2) While coordination between you and the U.S. Fish and Wildlife Service (USFWS) is not necessarily required in all cases, ODAFF encourages you to coordinate with USFWS and to do so early in the planning process prior to submitting your NOI.

- Criterion A.** No federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur in your site’s “action area” as defined in Appendix A of this permit.
- Criterion B.** The construction site’s discharges and discharge-related activities were already addressed in another operator’s valid certification of eligibility for your action area under eligibility Criterion A, C, D, E, or F and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the “action area”. To certify your eligibility under this Criterion, there must be no lapse of AgPDES permit coverage in the other operator’s certification. By certifying eligibility under this Criterion, you agree to comply with any effluent limitations or conditions upon which the other operator’s certification was based. You must include in your NOI the permit number from the other operator’s notification of authorization under this permit. If your certification is based on another operator’s certification under Criterion C, you must provide ODAFF with the relevant supporting information required of existing dischargers in Criterion C in your NOI form.
- Criterion C.** Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur in or near your site’s “action area,” and your site’s discharges and discharge-related activities are not likely to adversely affect listed threatened or endangered species or critical habitat. This determination may include consideration of any stormwater controls and/or management practices you will adopt to ensure that your discharges and discharge-related activities are not likely to adversely affect listed species and critical habitat. To make this certification, you must include the following in your NOI: 1) any federally listed species and/or designated habitat located in your “action area”; and 2) the distance between your site and the listed species or designated critical habitat (in miles). You must also include a copy of your site map with your NOI.

Criterion D. Coordination between you and the USFWS has been concluded. The coordination must have addressed the effects of your site’s discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and must have resulted in a written concurrence from the USFWS that your site’s discharges and discharge-related activities are not likely to adversely affect listed species or critical habitat. You must include copies of the correspondence between yourself and the USFWS in your SWPPP and your NOI.

Criterion E. Consultation between a Federal Agency and the USFWS under section 7 of the ESA has been concluded. The consultation must have addressed the effects of the construction site’s discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat. The result of this consultation must be either:

- i. a biological opinion that concludes that the action in question (taking into account the effects of your site’s discharges and discharge-related activities) is not likely to jeopardize the continued existence of listed species, nor the destruction or adverse modification of critical habitat; or
- ii. written concurrence from the USFWS with a finding that the site’s discharges and discharge-related activities are not likely to adversely affect federally-listed species or federally-designated habitat.

You must include copies of the correspondence between yourself and USFWS in your SWPPP and your NOI.

Criterion F. Your construction activities are authorized through the issuance of a permit under section 10 of the ESA and this authorization addresses the effects of the site’s discharges and discharge-related activities on federally-listed species and federally-designated critical habitat. You must include copies of the correspondence between yourself and USFWS in your SWPPP and your NOI.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility criteria in this section to remain eligible for coverage under this permit. Documentation of these requirements must be kept as part of your SWPPP (see Part 7.2.14.1).

D.2 Guidance for Determining Which Criterion Applies

Part 1.1.5 of the permit requires that you meet one of the six criteria listed above in order to be eligible for coverage under the permit.

You must follow the procedures in Steps 1 through 6 to determine the ESA criterion under which your site is eligible for permit coverage.

D.2.1 Step 1 - Determine if Your Discharges and Discharge-Related Activities Were Already Addressed in Another Operator’s Valid Certification that Included Your Action Area.

- **If your discharges and discharge-related activities were already addressed in another operator’s valid certification that included your action area** (e.g., a general contractor or developer may have completed and filed an NOI for the entire action area with the necessary ESA certifications (Criterion A, C, D, E, or F)), you may select eligibility Criterion B on your Notice of Intent form.

By certifying eligibility under Criterion B, you must comply with any terms and conditions imposed under the eligibility requirements of Criterion A, C, D, E, or F to ensure that your discharges and discharge-related activities are protective of listed species and/or critical habitat.

Note: If you are unable to meet these eligibility requirements, then you may either establish eligibility under one of the other criterion, or you may consider applying to ODAFF for an individual permit.

Under Criterion B, you must provide documentation in your SWPPP of any of these terms and conditions, as well as the other operator's basis for establishing eligibility. You must also provide a description of the basis for your selection of Criterion B on your NOI form, including the eligibility criterion (A, C, D, E, or F) that was certified to by the previous operator, and must provide the permit number from the other operator's notification of authorization under this permit.

If your certification is based on another operator's certification under criterion C, you must provide the documentation required in the NOI for criterion C, namely:

1) what federally listed species and/or designated habitat are located in your "action area"; and 2) what is the distance between your site and the listed species or designated critical habitat (in miles).

- **If discharges and discharge-related activities from your site were not addressed in another operator's valid certification that included your action area**, you must follow the applicable procedures in Steps 2 through 5 below.

D.2.2 Step 2 - Determine if Listed Threatened or Endangered Species or their Designated Critical Habitat(s) are Likely to Occur in your Site's Action Area

You must determine, to the best of your knowledge, whether species listed as either threatened or endangered, or their critical habitat(s) (see definitions of these terms in Appendix A), are located in your site's action area. To make this determination, you should first determine if listed species and/or critical habitat are expected to exist in your county or township. The local offices of the USFWS and State or Tribal Heritage Centers often maintain lists of federally listed endangered or threatened species on their internet sites. For USFWS terrestrial and aquatic species information, you can use USFWS' on-line mapping tool, the Information, Planning, and Consultation (IPAC) System, located at <http://www.fws.gov/ipac/>.

Note: To determine the field office that corresponds to your project site, visit <http://www.fws.gov/endangered/regions/index.html> and <http://www.nmfs.noaa.gov/> (under the left tab for "Regions").

In most cases, species and/or critical habitat lists allow you to determine if any such species or habitat exists in your county or township. You can also find critical habitat designations and associated requirements at 50 CFR Parts 17 and 226. <http://www.access.gpo.gov>.

- If there are listed species and/or critical habitat in your county or township, you should contact your local USFWS or State or Tribal Heritage Center to determine if the listed species are known to exist in your action area and if any critical habitat areas have been designated that overlap your action area.

- If your local USFWS or State or Tribal Heritage Center indicates that these species and/or critical habitat could exist in your action area, you must:
 - Do one or more of the following:
 - Conduct visual inspections. This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal stormwater collection systems.
 - Conduct a formal biological survey. In some cases, particularly for larger construction sites with extensive stormwater discharges, biological surveys may be an appropriate way to assess whether species are located in the action area and whether there are likely to be adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful to conduct in conjunction with Steps Two, Three, or Four of these instructions.

and

- Follow the instructions in Steps 3 – 5 below, as applicable. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this CGP may require measures to protect critical habitat that are separate from those to protect listed species.
- **If there are no listed species in your county or township and no critical habitat areas in your action area**, you may check eligibility criterion A on your NOI form. You must also provide a description of the basis for the criterion selected on your NOI form and provide documentation supporting the criterion selected in your SWPPP.

D.2.3 Step 3 - Determine if the Construction Activity's Discharges or Discharge-Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat

If in Step 2 you determine based on communication with your local USFWS or State or Tribal Heritage Center, or other determination, that listed species and/or critical habitat could exist in your action area, you must next assess whether your discharges or discharge-related activities are likely to adversely affect listed threatened or endangered species or designated critical habitat.

Potential adverse effects from discharges and discharge-related activities include:

- Hydrological. Stormwater discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of stormwater discharged and the volume and condition of the receiving water. Where a stormwater discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.

- Habitat. Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of stormwater controls, may adversely affect listed species or their habitat. Stormwater may drain or inundate listed species habitat.
- Toxicity. In some cases, pollutants in stormwater may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you should contact the appropriate office of the USFWS or Natural Heritage Center for assistance.

- **If adverse effects to listed threatened or endangered species or their critical habitat are not likely**, then you may select eligibility criterion C on the NOI form. You must provide the following specific information on your NOI form: 1) what federally listed species and/or designated habitat are located in your “action area”; and 2) what is the distance between your site and the listed species or designated critical habitat (in miles). You must also provide a copy of your site map with your NOI.
- **If adverse effects to listed threatened or endangered species or their critical habitat are likely**, you must follow Step 4 below.

D.2.4 Step 4 - Determine if Measures Can Be Implemented to Avoid Adverse Effects

If you make a preliminary determination in Step 3 that adverse effects from your construction activity’s discharges or discharge-related activities are likely to occur, you can still receive coverage under eligibility criterion C of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for CGP coverage.

These measures may involve relatively simple changes to construction activities such as re-routing a stormwater discharge to bypass an area where species are located, relocating stormwater controls, or by modifying the “footprint” of the construction activity. If you are unable to ascertain which measures to implement to avoid the likelihood of adverse effects, you must coordinate or enter into consultation with the USFWS, in which case you would not be eligible for coverage under eligibility criterion C, but may instead be eligible for coverage under eligibility criterion D, E, or F (described in more detail in Step 5).

- **If you are able to install and implement appropriate measures to avoid the likelihood of adverse effects**, then you may check eligibility criterion C on the NOI form. The measures you adopt to avoid or eliminate adverse effects must be implemented for the duration of the construction project and your coverage under the CGP. You must also provide a description of the basis for the criterion selected, and the following specific information on your NOI form: 1) what federally listed species and/or designated habitat are located in your “action area”; and 2) what is the distance between your site and the listed species or designated critical habitat (in miles).
- **If you cannot ascertain which measures to implement to avoid the likelihood of adverse effects**, you must follow the procedures in Step 5.

D.2.5 Step 5 - Determine if the Eligibility Requirements of Criterion D, E, or F Can Be Met

If in Step 4 you cannot ascertain which measures to implement to avoid the likelihood of adverse effects, you must contact the USFWS. You may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting criterion D, E, or F.

- **Criterion D:** You have coordinated with the Services and have addressed the effects of your site's discharges on federally-listed threatened or endangered species and federally-designated critical habitat, which resulted in a written concurrence from the relevant Service(s) that your site's discharges are not likely to adversely affect listed species or critical habitat.

If you have met the requirements of criterion D, you may select eligibility criterion D on the NOI form. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between you and the applicable Service in your SWPPP.

- **Criterion E:** Formal or informal ESA section 7 consultation is performed with the USFWS and that consultation addresses the effects of your discharges and discharge-related activities on federally-listed and threatened species and designated critical habitat. In order to be eligible for coverage under this permit, consultation must result in a "no jeopardy opinion" or a written concurrence by the Service(s) on a finding that your stormwater discharge(s) and stormwater discharge-related activities are not likely to adversely affect listed species or critical habitat (For more information on consultation, see 50 CFR §402). If you receive a "jeopardy opinion," you may continue to work with the USFWS and your permitting authority to modify your project so that it will not jeopardize listed species or designated critical habitat.

Note that most consultations are accomplished through informal consultation. When conducting informal ESA section 7 consultation as a non-federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must notify USFWS of your intention and agreement to conduct consultation as a non-federal representative.

Consultation may occur in the context of another federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, operators may, if they wish, initiate consultation with the Services at Step Four.

If you have met the requirements of criterion E, you may select eligibility criterion E on the NOI form. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between yourself and the Services in your SWPPP.

- **Criterion F:** Your construction activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of your discharge(s) and discharge-related activities on federally-listed species and designated critical habitat. You must follow USFWS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1)). Application instructions for section 10 permits for USFWS can be obtained by accessing the USFWS website (<http://www.fws.gov>) or by contacting the appropriate USFWS regional office.

If you have met the requirements of criterion F, you may select eligibility criterion F on the NOI form. You must provide a description of the basis for the criterion selected on your NOI form and must include copies of the correspondence between yourself and the Services in your SWPPP.

Appendix E – Historic Property Screening Process

Background

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal “undertakings”, such as the issuance of this permit, on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. To address any issues relating to historic properties in connection with the issuance of this permit, ODAFF has developed the screening process in this appendix that enables construction operators to appropriately consider the potential impacts, if any, of their installation of stormwater controls on historic properties and to determine whether actions can be taken, if applicable, to mitigate any such impacts. Although the coverages of individual construction sites under this permit do not constitute separate Federal undertakings, the screening process in this appendix provides an appropriate site-specific means of addressing historic property issues in connection with ODAFF’s issuance of the permit.

Instructions for All Construction Operators

You are required to follow the screening process in this appendix to determine if your installation of stormwater controls on your site has the potential to cause effects to historic properties, and whether or not you need to contact your State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other tribal representative for further information. You may not submit your NOI until you have completed this screening process. The following four steps describe how applicants can meet the historic property requirements under this permit:

Step 1 *Are you installing any stormwater controls that require subsurface earth disturbance?*

The first step of the screening process is to determine if you will install stormwater controls that cause subsurface earth disturbance. The installation of the following types of stormwater controls require subsurface earth disturbance:

- Dikes
- Berms
- Catch Basins
- Ponds
- Ditches
- Trenches
- Culverts
- Channels
- Perimeter Drains
- Swales

Note: This list is not intended to be exhaustive. Other stormwater controls that are not on this list may involve earth-disturbing activities and must also be examined for the potential to affect historic properties.

Note: You are only required to consider earth-disturbing activities related to the installation of stormwater controls in the NHPA screening process. You are not required to consider other earth-disturbing activities at the site. If you are installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, your project has the potential to have an effect on historic properties. If this is the case, then you must proceed to Step 2.

If you are not installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, then you may indicate this on your NOI, and no further screening is necessary. During the 14-day waiting period after submitting your NOI, the SHPO, THPO, or other tribal representative may request that ODAFF hold up authorization based on concerns about potential adverse impacts to historic properties. ODAFF will evaluate any such request and notify you if any additional measures to address adverse impacts to historic properties are necessary.

Step 2 *Have prior professional cultural resource surveys or other evaluations determined that historic properties do not exist, or have prior disturbances precluded the existence of historic properties?*

If you are installing a stormwater control that requires subsurface earth disturbance, you must next determine if it has already been determined that no historic properties exist on your site based on prior professional cultural resource surveys or other evaluations, or that the existence of historic properties has been precluded because of prior earth disturbances.

If prior to your project it has already been determined that no historic properties exist at your site based on available information, including information that may be provided by your applicable SHPO, THPO, or other tribal representative, then you may indicate this on your NOI, and no further screening steps are necessary. Similarly, if earth disturbances that have occurred prior to your project have eliminated the possibility that historic properties exist on your site, you may indicate this on your NOI, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that ODAFF hold up authorization based on concerns about potential adverse impacts to historic properties. ODAFF will evaluate any such request and notify you if any additional measures to address adverse impacts to historic properties are necessary.

If neither of these circumstances exists for your project, you must proceed to Step 3.

Step 3 *If you are installing any stormwater controls that require subsurface earth disturbance, you must determine if these activities will have an effect on historic properties.*

If your answer to the questions in Steps 1 and 2 is “no”, then you must assess whether your earth-disturbing activities related to the installation of stormwater controls will have an effect on historic properties. This assessment may be based on historical sources, knowledge of the area, an assessment of the types of earth-disturbing activities you are engaging in, considerations of any controls and/or management practices you will adopt to ensure that your stormwater control-related earth-disturbing activities will not have an effect on historic properties, and any other relevant factors. If you determine based on this assessment that earth disturbances related to the installation of your stormwater controls will not cause effects to historic properties, you may indicate this on your NOI, and document the basis for your determination in your SWPPP and no further screening steps are necessary. In this case you must also attach a copy of your site map to your NOI. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that ODAFF hold up authorization based on concerns about potential adverse impacts to historic properties. ODAFF will evaluate any such request and notify you if any additional measures to address adverse impacts to historic properties are necessary.

If none of the circumstances in Steps 1-3 exist for your project, you must proceed to Step 4.

Step 4

If you are installing any stormwater controls that require subsurface earth disturbance and you have not satisfied the conditions in Steps 1-3, you must contact and consult with the appropriate historic preservation authorities.

Where you are installing stormwater controls that require subsurface earth disturbance, and you cannot determine in Step 3 that these activities will not have effects on historic properties, then you must contact the relevant SHPO, THPO, or other tribal representative to request their views as to the likelihood that historic properties are potentially present on your site and may be impacted by the installation of these controls.

Note: Addresses for SHPOs and THPOs may be found on the Advisory Council on Historic Preservation's website (www.achp.gov/programs.html). In instances where a Tribe does not have a THPO you should contact the appropriate Tribal government office designated by the Tribe for this purpose when responding to this permit eligibility condition.

You must submit the following minimum information in order to properly initiate your request for information:

1. Project name (i.e., the name or title most commonly associated with your project);
2. A narrative description of the project;
3. Name, address, phone and fax number, and email address (if available) of the operator;
4. Most recent U.S. Geological Survey (USGS) map section (7.5 minute quadrangle) showing actual project location and boundaries clearly indicated; and
5. Sections of SWPPP site map (see Part 7.2.6) that show locations where stormwater controls that will cause subsurface earth disturbance will be installed (see Step 1).

Without submitting this minimum information, you will not have been considered to have properly initiated your request. You will need to provide the SHPO, THPO, or other tribal representative a minimum of 15 calendar days after they receive these materials to respond to your request for information about your project. You are advised to get a receipt from the post office or other carrier confirming the date on which your letter was received.

If you do not receive a response within 15 calendar days after receipt by the SHPO, THPO, or other tribal representative of your request, then you may indicate this on your NOI, and no further screening steps are necessary. Or, if the applicable SHPO, THPO, or other tribal representative responds to your request with an indication that no historic properties will be affected by the installation of stormwater controls at your site, then you may indicate this on your NOI, and no further screening steps are necessary. After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, or other tribal representative may request that ODAFF hold up authorization based on concerns about potential adverse impacts to historic properties. ODAFF will evaluate any such request and notify you if any additional measures to address adverse impacts to historic properties are necessary.

If within 15 calendar days of receipt of your request the applicable SHPO, THPO, or other tribal representative responds with a request for additional information or for further consultation regarding appropriate measures for treatment or mitigation of effects on

historic properties caused by the installation of stormwater controls on your site, you must comply with this request and proceed to Step 5.

Step 5 *Consultation with your applicable SHPO, THPO, or other tribal representative.*

If, following your discussions with the appropriate historic preservation authorities in Step 4, the applicable SHPO, THPO, or other tribal representative requests additional information or further consultation, you must respond with such information or to consult to determine impacts to historic properties that may be caused by the installation of stormwater controls on your site and appropriate measures for treatment or mitigation of such impacts. If as a result of your discussions with the applicable SHPO, THPO, or tribal representative, you enter into, and comply with, a written agreement regarding treatment and/or mitigation of impacts on your site, then you may indicate this on your NOI, and no further screening steps are necessary.

If, however, agreement on an appropriate treatment or mitigation plan cannot be reached between you and the SHPO, THPO, or other tribal representative within 30 days of your response to the SHPO, THPO, or other tribal representative's request for additional information or further consultation, you may submit your NOI, but you must indicate that you have not negotiated measures to avoid or mitigate such effects. You must also include in your SWPPP the following documentation:

1. Copies of any written correspondence between you and the SHPO, THPO, or other tribal representative; and
2. A description of any significant remaining disagreements as to mitigation measures between you and the SHPO, THPO, or other tribal representative.

After submitting your NOI, and during the 14-day waiting period, the SHPO, THPO, ACHP or other tribal representative may request that ODAFF place a hold on authorization based upon concerns regarding potential adverse effects to historic properties. ODAFF, in coordination with the ACHP, will evaluate any such request and notify you if any additional measures to address adverse effects to historic properties are necessary.

Appendix F - Standard Permit Conditions

Standard permit conditions in Appendix F are consistent with the general permit provisions required under 40 CFR 122.41.

A. Duty to Comply.

In accordance with the provisions of 40 CFR § 122.41, et. seq., this permit incorporates by reference all conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, Oklahoma Agriculture Pollutant Discharge Elimination System Act and Oklahoma Agriculture Environmental Permitting Act (hereinafter known as the “Acts”) as well as all applicable federal regulations and State AgPDES rules at OAC 35:44.

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Acts and is grounds for enforcement action; for permit termination, revocation, modification, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual AgPDES permit.

Penalties for Violations of Permit Conditions

1. Whenever there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, any permit, any rule, or any order of the AgPDES Director of the Agriculture Pollutant Discharge Elimination System, the AgPDES Director shall have the authority and powers to proceed as specified in the Administrative Procedures Act unless otherwise provided herein. However, provisions of this section for written notice, enforcement hearing, and administrative orders shall not be conditions precedent for seeking action in the district court as provided by the Oklahoma Agriculture Pollutant Discharge Elimination System Act or other applicable provisions of law.
2. The Oklahoma Agriculture Pollutant Discharge Elimination System Act shall not in any way impair or in any way affect the right of a person to recover damages for pollution that are otherwise allowed by law in a court of competent jurisdiction.
3. Any person having any interest connected with the geographic area or waters or water system affected, including but not limited to any health, environmental, pecuniary, or property interest, which interest is or may be adversely affected, shall have the right to intervene as a party in any administrative proceeding before the Department, or in any civil proceeding, relating to violations of the Oklahoma Agriculture Pollutant Discharge Elimination System Act or rules, permits or orders issued hereunder.
4. Whenever, on the basis of any information available, the Department finds that any person regulated by the Department is in violation of any act, rule, order, permit, condition or limitation implementing the Oklahoma Agriculture Pollutant Discharge Elimination System Act, or any previously issued discharge permit, the AgPDES Director may issue an order requiring the person or entity to comply with the provision or requirement, commence appropriate administrative enforcement proceedings, or bring a civil action. Provided, however, the issuance of a compliance order or denial, placing on probation, reinstatement, suspension or revocation of a permit shall not be considered a condition precedent to the accrual or imposition of penalties or fines in any administrative, civil, or criminal proceeding.

5. A copy of any order issued pursuant to this section shall be sent immediately to the violator. In any case in which an order or notice to a violator is issued to a corporation, a copy of the order shall be served on any appropriate individual officers or service agents.
6. Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty (30) days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a reasonable time in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Any order or notice issued by the AgPDES Director may be served in any manner allowed by Oklahoma Rules of Civil Procedure applicable to a civil summons.
7. Whenever on the basis of any information available the AgPDES Director finds that any person regulated by the Department has violated any of the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, or any permit, rule, order or condition or limitation implementing any of these sections, or previously issued discharge permit or related order, the AgPDES Director may assess, after providing notice and opportunity for an enforcement hearing to the alleged violator, an administrative fine of not more than Ten Thousand Dollars (\$10,000.00) per day for each violation.
8. The total amount of the administrative fine shall not exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00) per violation. In determining the amount of any penalty assessed under this subsection, the AgPDES Director shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, the economic benefit savings, if any, resulting from the violation, and any other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.
9. Enforcement hearings shall be conducted in accordance with the procedures set out in the Administrative Procedures Act.
10. The AgPDES Director is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the AgPDES Director is authorized to issue a compliance order under subsection 4 of this section.
11. Any person who violates any provision of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, any permit condition or limitation implementing any of such provisions in a permit issued under the Oklahoma Agriculture Pollutant Discharge Elimination System Act, and any person who violates any order issued by the AgPDES Director under subsection 4 of this section, shall be subject to a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day for each violation.
12. In determining the amount of the civil penalty, the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and any other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

13. Any action pursuant to this subsection may be brought in the district court for the district in which the property or defendant is located or defendant resides or is doing business, and the court shall have jurisdiction to restrain any violation and to require compliance.
14. The prior revocation of a permit shall not be a condition precedent to the filing of a civil action under the Oklahoma Agriculture Pollutant Discharge Elimination System Act.
15. Any person who violates any provision of this act, any order of the AgPDES Director, or any condition or limitation in a permit issued pursuant to this act may be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Ten Thousand Dollars (\$10,000.00) per day for each violation, or by imprisonment for not more than six (6) months for each violation, or both.
16. Any person who knowingly makes any false material statement, representation, or certification in, omits material data from, or tampers with any application, notice, record, report, plan, or other document filed or required to be maintained under the Oklahoma Agriculture Pollutant Discharge Elimination System Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Oklahoma Agriculture Pollutant Discharge Elimination System Act, shall be punishable, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) per day for each violation, or by imprisonment for not more than two (2) years, or by both. If a conviction of a person is for a violation committed after a first conviction of that person under this paragraph, punishment shall be by a fine of not more than Twenty Thousand Dollars (\$20,000.00) per day for each violation, or by imprisonment for not more than four (4) years, or by both. In addition, the AgPDES Director shall deny issuance of the permit or require submission of a new application.
17. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.
18. Whenever, on the basis of information available, the Department finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Oklahoma Agriculture Pollutant Discharge Elimination System Act or any requirement, rule, permit, or order issued under this act, the Department shall notify the owner or operator of the treatment works of the violation.
19. If the operator of the treatment works does not commence appropriate enforcement action within thirty (30) days of the date of the notification, the Department may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of the treatment works.
20. In the civil action, the Department shall join the operator of the source as a party to the action.
21. The action shall be brought in the district court in the county in which the treatment works is located.
22. The court shall have jurisdiction to restrain the violation and to require the operator of the treatment works and the operator of the source to take any action as may be necessary to come into compliance with the Oklahoma Agriculture Pollutant Discharge Elimination System Act.
23. Nothing in this subsection shall be construed to limit or prohibit any other authority the Department may have under this section.

24. Any person against whom an administrative compliance or penalty order is issued under this section may obtain review of the order by filing a petition for review in district court pursuant to the Oklahoma Administrative Procedures Act. The court shall not impose additional civil penalties for the same violation unless the assessment of the penalty constitutes an abuse of discretion. No stay of an administrative penalty order shall be granted until the amount of penalty assessed has been deposited with the reviewing district court pending resolution of the petition for review.
25. If any person fails to pay an assessment of an administrative penalty:
- a. after the order making the assessment has become final, or
 - b. after a court in an action brought under paragraph 1 of this subsection has entered a final judgment in favor of the Department, as the case may be,
- a civil action may be brought in an appropriate district court to recover the amount assessed plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review.
26. Any person who fails to pay on a timely basis the amount of an assessment of an administrative or civil penalty shall be required to pay, in addition to the amount and interest, attorney fees and costs for the collection proceeding and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of the penalties of the person and nonpayment penalties which are unpaid as of the beginning of the quarter.
27. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this act, any rule, any order of the AgPDES Director, or any condition or limitation in a permit issued pursuant to this act.
28. Any action for injunctive relief to redress or restrain a violation of any person of a provision of this act, any rule, any order of the AgPDES Director, or any condition or limitation in a permit issued pursuant to this act or recovery of any administrative or civil penalty assessed may be brought by:
- a. the district attorney of the appropriate district court of the State of Oklahoma,
 - b. the Attorney General on behalf of the State of Oklahoma, or
 - c. the Department on behalf of the State of Oklahoma.
29. It shall be the duty of the Attorney General and district attorney if requested by the AgPDES Director to bring such action.

B. Duty to Reapply.

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain authorization as required by the new permit once ODAFF issues it.

C. Need to Halt or Reduce Activity Not a Defense.

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate.

You must take all reasonable steps to minimize or prevent any discharge, or sludge use or disposal, in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance.

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by you to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by you only when the operation is necessary to achieve compliance with the conditions of this permit.

F. Permit Actions.

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

G. Property Rights.

This permit does not convey any property rights of any sort, or any exclusive privileges.

H. Duty to Provide Information.

You must furnish to ODAFF or an authorized representative, within a reasonable time, any information that ODAFF may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to ODAFF or an authorized representative upon request, copies of records required to be kept by this permit.

I. Inspection and Entry.

You must allow ODAFF or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon your premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Acts, any substances or parameters at any location.

J. Monitoring and Records.

Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.

You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date the permit expires or the date the permittee's authorization is terminated. This period may be extended by request of ODAFF at any time.

Records of monitoring information must include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.

The Acts provide that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

K. Signatory Requirements.

1. All applications, including NOIs, must be signed as follows:
 - a. For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means:
 - i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - ii. the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes

- i. the chief executive officer of the agency, or
 - ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Secretary of Agriculture).
2. Your SWPPP, including changes to your SWPPP, inspection reports, and any other compliance documentation required under this permit, must be signed by a person described in Appendix F, Subsection K.1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in Appendix F, Subsection K.1;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - c. The signed and dated written authorization is included in the SWPPP. A copy must be submitted to ODAFF, if requested.
3. Changes to Authorization. If an authorization under Part 1.4 is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new NOI satisfying the requirements of Part 1.4 must be submitted to ODAFF. See Table 1 in Part 1.4.2 of the permit. However, if the only change that is occurring is a change in contact information or a change in the facility's address, the operator need only make a modification to the existing NOI submitted for authorization.
4. Any person signing documents in accordance with Appendix F, Subsections K.1 or K.2 above must include the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information contained therein. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
5. For persons signing documents electronically, in addition to meeting other applicable requirements in Appendix I, Subsection K, such signatures must meet the same signature, authentication, and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports (including robust second-factor authentication).
6. The AgPDES Act provides that any person who knowingly makes any false material statement, representation, or certification in, omits material data from, or tampers with any application, notice, record, report, plan, or other document filed or required to be maintained under the Oklahoma Agriculture Pollutant Discharge Elimination System Act shall be punishable, upon conviction, by a fine of not more than \$10,000.00 per day for each violation, or by imprisonment for not more than 2 years, or by both

L. Reporting Requirements.

6. *Planned changes.* You must give notice to ODAFF as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b);
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1); or
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
7. *Anticipated noncompliance.* You must give advance notice to ODAFF of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
8. *Transfers.* This permit is not transferable to any person except after notice to ODAFF. Where a facility wants to change the name of the permittee, the original permittee (the first owner or operators) must submit a Notice of Termination pursuant to Part 8. The new owner or operator must submit a Notice of Intent in accordance with Part 1.4 and Table 1. See also requirements in Appendix F, Subsections K.1 and K.2.
9. *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.
10. *Twenty-four hour reporting.* In addition to reports required elsewhere in this permit:
 - a. You must report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time you become aware of the circumstances. A written submission must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - b. The following shall be included as information which must be reported within 24 hours under this paragraph.
 - i. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(m)(3)(ii))
 - ii. Any upset which exceeds any effluent limitation in the permit
 - iii. Violation of a maximum daily discharge limit for any numeric effluent limitation. (See 40 CFR 122.44(g).)
 - c. ODAFF may waive the written report on a case-by-case basis for reports under Appendix F, Subsection L.6.b if the oral report has been received within 24 hours.
11. *Other noncompliance.* You must report all instances of noncompliance not reported under Appendix F, Subsections L.4, L.5, and L.6, at the time monitoring reports are submitted. The reports must contain the information listed in Appendix F, Subsection K.6.

12. *Other information.* Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permitting Authority, you must promptly submit such facts or information.

M. e-Reporting Requirements

EPA's NPDES Electronic Reporting Rule requires electronic submission of the NOI, NOT, LEW, or other waiver documents in order to provide timely information, increase data accuracy, and improve compliance with AgPDES rules. If submitting an NOI, NOT, LEW, or other waiver documents on or after December 21, 2020, the operator must submit them using ODAFF's eNOI system available on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the CAFO owner/operator has obtained a waiver from the requirements to use eNOI for submission of these documents. Owner/operators waived from the requirement to use eNOI for submission of the NOI, NOT, LEW, or other waiver documents must certify on paper document submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper document and then provide a basis for this determination.

N. Bypass.

1. *Definitions.*
 - a. **Bypass** means the intentional diversion of waste streams from any portion of a treatment facility See 40 CFR 122.41(m)(1)(i).
 - b. **Severe property damage** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR 122.41(m)(1)(ii).
2. *Bypass not exceeding limitations.* You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Appendix F, Subsections M.3 and M.4. See 40 CFR 122.41(m)(2).
3. *Notice.*
 - a. Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass. See 40 CFR 122.41(m)(3)(i).
 - b. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Appendix F, Subsection L.6 (24-hour notice). See 40 CFR 122.41(m)(3)(ii).
4. *Prohibition of bypass.* See 40 CFR 122.41(m)(4).
 - a. Bypass is prohibited, and ODAFF may take enforcement action against you for bypass, unless:
 - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering

judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- iii. You submitted notices as required under Appendix F, Subsection M.3.
- b. ODAFF may approve an anticipated bypass, after considering its adverse effects, if ODAFF determines that it will meet the three conditions listed above in Appendix F, Subsection M.4.a.

O. Upset.

1. *Definition.* **Upset** means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. See 40 CFR 122.41(n)(1).
2. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Appendix F, Subsection N.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. See 40 CFR 122.41(n)(2).
3. *Conditions necessary for a demonstration of upset.* See 40 CFR 122.41(n)(3). A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that you can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated; and
 - c. You submitted notice of the upset as required in Appendix F, Subsection L.6(b)(ii) (24 hour notice).
 - d. You complied with any remedial measures required under Appendix F, Subsection D.
4. *Burden of proof.* In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, have the burden of proof. See 40 CFR 122.41(n)(4).

P. Retention of Records.

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of ODAFF at any time.

Q. Reopener Clause.

1. *Procedures for modification or revocation.* Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.
2. *Water quality protection.* If there is evidence indicating that the stormwater discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit in accordance

with Part 1.4.5 of this permit, or the permit may be modified to include different limitations and/or requirements.

3. *Timing of permit modification.* ODAFF may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.

R. Severability.

Invalidation of a portion of this permit does not necessarily render the whole permit invalid. ODAFF's intent is that the permit is to remain in effect to the extent possible; in the event that any part of this permit is invalidated, ODAFF will advise the regulated community as to the effect of such invalidation.

Appendix G – Buffer Guidance

Appendix G – Buffer Requirements

The purpose of this appendix is to assist you in complying with the requirements in Part 2.2.1 of the permit regarding the establishment of natural buffers and/or equivalent sediment controls. This appendix is organized as follows:

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G.1 SITES THAT ARE REQUIRED TO PROVIDE AND MAINTAIN NATURAL BUFFERS AND/OR EQUIVALENT EROSION AND SEDIMENT CONTROLS

The requirement in Part 2.2.1 to provide and maintain natural buffers and/or equivalent erosion and sediment controls applies for any discharges to waters of the U.S. located within 50 feet of your site's earth disturbances. If the water of the U.S. is not located within 50 feet of earth-disturbing activities, Part 2.2.1 does not apply. See Figure G-1.

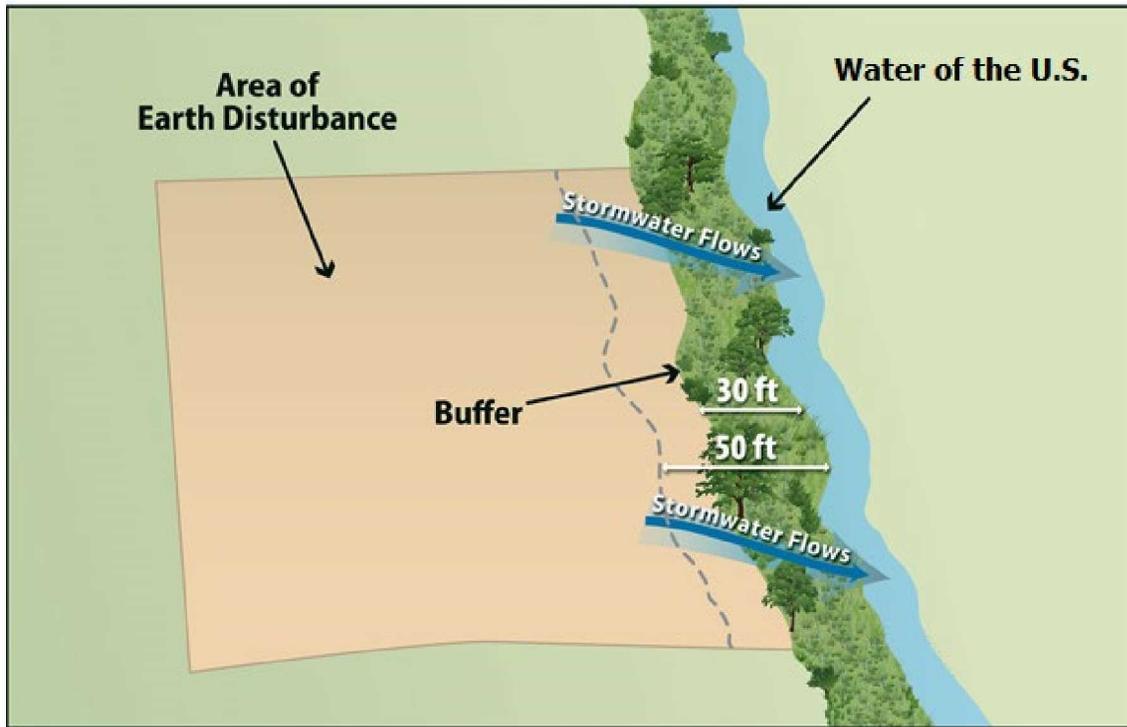


Figure G-1 Example of earth-disturbing activities within 50 feet of a water of the U.S.

G.2 COMPLIANCE ALTERNATIVES AND EXCEPTIONS

G.2.1 Compliance Alternatives

If Part 2.2.1 applies to your site, you have three compliance alternatives from which you can choose, unless you qualify for any of the exceptions (see below and Part 2.2.1.a):

1. Provide and maintain a 50-foot undisturbed natural buffer; or
2. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
3. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer. ¹

The compliance alternative selected must be maintained throughout the duration of permit coverage.

See Part G.2.2 below for exceptions to the compliance alternatives.

See Part G.2.3 for requirements applicable to providing and maintaining natural buffers under compliance alternatives 1 and 2 above.

See Part G.2.4 for requirements applicable to providing erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer under compliance alternatives 2 and 3 above.

G.2.2 Exceptions to the Compliance Alternatives

The following exceptions apply to the requirement to implement one of the Part 2.2.1.a compliance alternatives (see also Part 2.2.1.b):

- The following disturbances within 50 feet of a water of the U.S. are exempt from the requirements Part 2.2.1 and this Appendix:
 - Construction approved under a CWA Section 404 permit; or
 - Construction of a water-dependent structure or water access areas (*e.g., pier, boat ramp, trail*).
- If there is no discharge of stormwater to waters of the U.S. through the area between the disturbed portions of the site and any waters of the U.S. located within 50 feet of your site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix. This includes situations where you have implemented controls measures, such as a berm or other barrier, that will prevent such discharges.
- Where no natural buffer exists due to preexisting development disturbances (*e.g., structures, impervious surfaces*) that occurred prior to the initiation of planning for the current development of the site, you are not required to comply with the requirements in Part 2.2.1 and this Appendix.

Where some natural buffer exists but portions of the area within 50 feet of the water of the U.S. are occupied by preexisting development disturbances, you are required to comply with the requirements in Part 2.2.1 and this Appendix. For the purposes of calculating the sediment load reduction for either compliance alternative 2 or 3, you are not expected to compensate for the reduction in buffer function that would have resulted from the area covered by these preexisting disturbances. Clarity about how to implement the compliance alternatives for these situations is provided in G.2.3 and G.2.4 below.

If during your project, you will disturb any portion of these preexisting disturbances, the area removed will be deducted from the area treated as a "natural buffer."

- For "linear construction sites" (see Appendix A), you are not required to comply with this requirement if site constraints (*e.g., limited right-of-way*) make it infeasible to implement one of the Part 2.2.1.a compliance alternatives, provided that, to the extent feasible, you limit disturbances within 50 feet of any waters of the U.S. and/or you provide supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 50 feet of the water of the U.S. You must also document in your SWPPP your rationale for why it is infeasible for you to implement one of the Part 2.2.1.a compliance alternatives, and describe any buffer width retained and supplemental erosion and sediment controls installed.
- For "small residential lot" construction (*i.e., a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential*

project that will ultimately disturb greater than or equal to 1 acre), you have the option of complying with one of the "small residential lot" compliance alternatives in Part G.3 of this appendix.

Note that you must document in your SWPPP if any disturbances related to any of the above exceptions occurs within the buffer area on your site.

G.2.3 Requirements for Providing and Maintaining Natural Buffers

This part of the appendix applies to you if you choose compliance alternative 1 (50-foot buffer), compliance alternative 2 (a buffer of < 50 feet supplemented by additional erosion and sediment controls that achieve the equivalent sediment load reduction as the 50-foot buffer), or if you are providing a buffer in compliance with one of the "small residential lot" compliance alternatives in Part G.3.

Buffer Width Measurement

Where you are retaining a buffer of any size, the buffer should be measured perpendicularly from any of the following points, whichever is further landward from the water:

1. The ordinary high water mark of the water body, defined as the line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris; or
2. The edge of the stream or river bank, bluff, or cliff, whichever is applicable.

Refer to Figure G-2 and Figure G-3. You may find that specifically measuring these points is challenging if the flow path of the water of the U.S. changes frequently, thereby causing the measurement line for the buffer to fluctuate continuously along the path of the waterbody. Where this is the case, ODAFF suggests that rather than measuring each change or deviation along the water's edge, it may be easier to select regular intervals from which to conduct your measurement. For instance, you may elect to conduct your buffer measurement every 5 to 10 feet along the length of the water.

Additionally, note that if earth-disturbing activities will take place on both sides of a water of the U.S. that flows through your site, to the extent that you are establishing a buffer around this water, it must be established on both sides. For example, if you choose compliance alternative 1, and your project calls for disturbances on both sides of a small stream, you would need to retain the full 50 feet of buffer on both sides of the water. However, if your construction activities will only occur on one side of the stream, you would only need to retain the 50-foot buffer on the side of the stream where the earth-disturbance will occur.

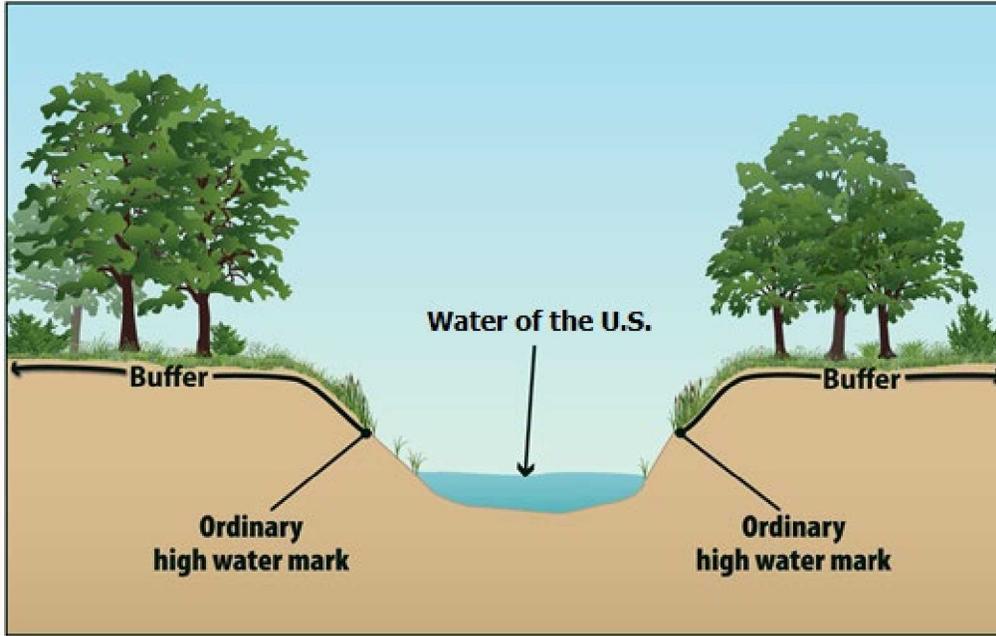


Figure G-2 Buffer measurement from the ordinary high water mark of the water body, as indicated by a clear natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, and/or the presence of litter/debris.

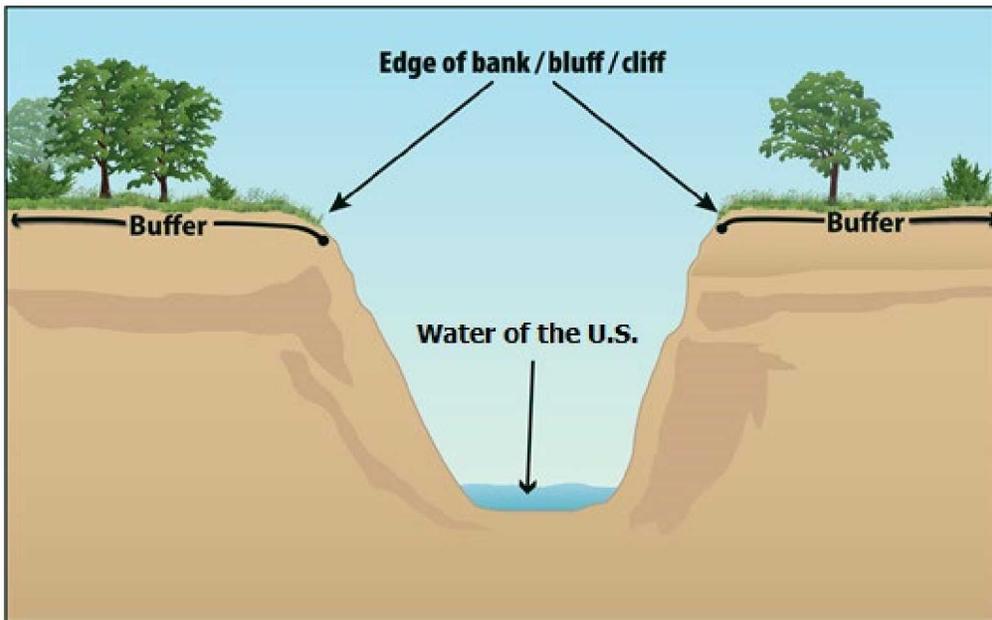


Figure G-3 Buffer measurement from the edge of the bank, bluff, or cliff, whichever is applicable.

Limits to Disturbance Within the Buffer

You are considered to be in compliance with the requirement to provide and maintain a natural buffer if you retain and protect from construction activities the natural buffer that existed prior to the commencement of construction. If the buffer area contains no vegetation prior to the commencement of construction (e.g., sand or rocky surface), you are not required to plant vegetation. As noted above, any preexisting structures or

impervious surfaces may occur in the natural buffer provided you retain and protect from disturbance the buffer areas outside of the preexisting disturbance.

To ensure that the water quality protection benefits of the buffer are retained during construction, you are prohibited from conducting any earth-disturbing activities within the buffer during permit coverage. In furtherance of this requirement, **prior to commencing earth-disturbing activities on your site, you must delineate, and clearly mark off, with flags, tape, or a similar marking device, the buffer area on your site.** The purpose of this requirement is to make the buffer area clearly visible to the people working on your site so that unintended disturbances are avoided.

While you are not required to enhance the quality of the vegetation that already exists within the buffer, you are encouraged to do so where such improvements will enhance the water quality protection benefits of the buffer. (Note that any disturbances within the buffer related to buffer enhancement are permitted and do not constitute construction disturbances.) For instance, you may want to target plantings where limited vegetation exists, or replace existing vegetation where invasive or noxious plant species (see <http://plants.usda.gov/java/noxiousDriver>) have taken over. In the case of invasive or noxious species, you may want to remove and replace them with a diversity of native trees, shrubs, and herbaceous plants that are well-adapted to the climatic, soil, and hydrologic conditions on the site. You are also encouraged to limit the removal of naturally deposited leaf litter, woody debris, and other biomass, as this material contributes to the ability of the buffer to retain water and filter pollutants.

If a portion of the buffer area adjacent to the water of the U.S. is owned by another party and is not under your control, you are only required to retain and protect from construction activities the portion of the buffer area that is under your control. For example, if you comply with compliance alternative 1 (provide and maintain a 50-foot buffer), but 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you must only retain and protect from construction activities the 40-foot buffer area that occurs adjacent to the property on which your construction activities are taking place. ODAFF would consider you to be in compliance with this requirement regardless of the activities that are taking place in the 10-foot area that is owned by a different party than the land on which your construction activities are taking place that you have no control over.

Discharges to the Buffer

You must ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls (for example, you must comply with the Part 2.2.3 requirement to install sediment controls along any perimeter areas of the site that will receive pollutant discharges), **and if necessary to prevent erosion caused by stormwater flows within the buffer, you must use velocity dissipation devices.** The purpose of this requirement is to decrease the rate of stormwater flow and encourage infiltration so that the pollutant filtering functions of the buffer will be achieved. To comply with this requirement, construction operators typically will use devices that physically dissipate stormwater flows so that the discharge entering the buffer is spread out and slowed down.

SWPPP Documentation

You are required to document in your SWPPP the natural buffer width that is retained. For example, if you are complying with alternative 1, you must specify in your SWPPP that you are providing a 50-foot buffer. Or, if you will be complying with alternative 2, you must document the reduced width of the buffer you will be retaining (and you must also

describe the erosion and sediment controls you will use to achieve an equivalent sediment reduction, as required in Part G.2.4 below). Note that you must also show any buffers on your site map in your SWPPP consistent with Part 7.2.4.i. Additionally, if any disturbances related to the exceptions in Part G.2.2 occur within the buffer area, you must document this in the SWPPP.

G.2.4 Guidance for Providing the Equivalent Sediment Reduction as a 50-foot Buffer

This part of the appendix applies to you if you choose compliance alternative 2 (provide and maintain a buffer that is less than 50 feet that is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot buffer) or compliance alternative 3 (implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot buffer).

Determine Whether it is Feasible to Provide a Reduced Buffer

ODAFF recognizes that there will be a number of situations in which it will be infeasible to provide and maintain a buffer of any width. While some of these situations may exempt you from the buffer requirement entirely (see G.2.2), if you do not qualify for one of these exemptions, there still may be conditions or circumstances at your site that make it infeasible to provide a natural buffer. For example, there may be sites where a significant portion of the property on which the earth-disturbing activities will occur is located within the buffer area, thereby precluding the retention of natural buffer areas.

Therefore, you should choose compliance alternative 2 if it is feasible for you to retain some natural buffer on your site. (Note: For any buffer width retained, you are required to comply with the requirements in Part G.2.3, above, concerning the retention of vegetation and restricting earth disturbances.) Similarly, if you determine that it is infeasible to provide a natural buffer of any size during construction, you should choose alternative 3.

Design Controls That Provide Equivalent Sediment Reduction as 50-foot Buffer

You must next determine what additional controls must be implemented on your site that, alone or in combination with any retained natural buffer, achieve a reduction in sediment equivalent to that achieved by a 50-foot buffer.

Note that if only a portion of the natural buffer is less than 50 feet, you are only required to implement erosion and sediment controls that achieve the sediment load reduction equivalent to the 50-foot buffer for discharges through that area. You would not be required to provide additional treatment of stormwater discharges that flow through 50 feet or more of natural buffer. See Figure G-4.

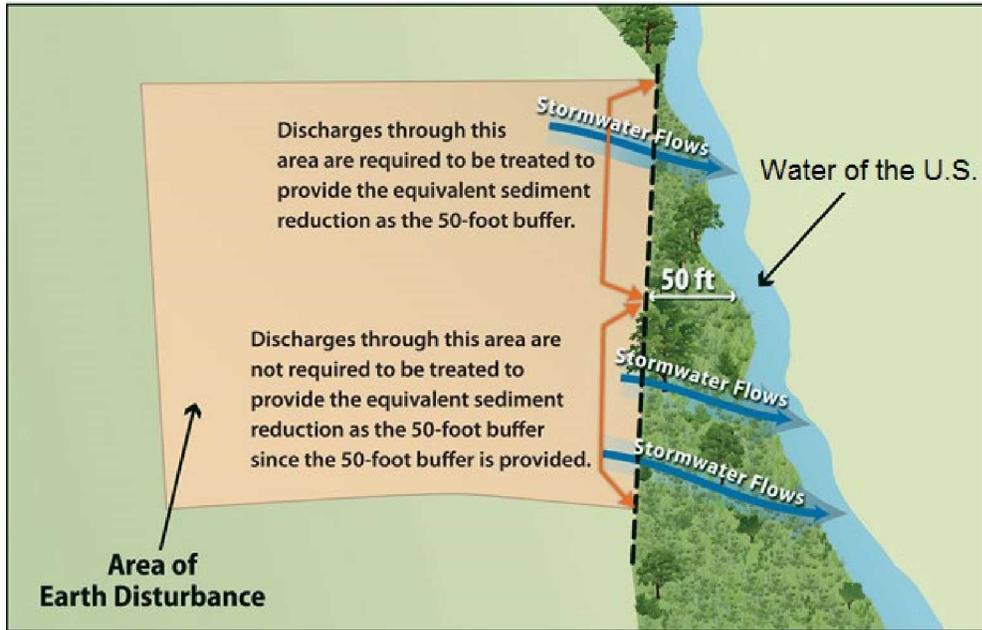


Figure G-4 Example of how to comply with the requirement to provide the equivalent sediment reduction when only a portion of your earth-disturbances discharge to a buffer of less than 50-feet.

Steps to help you meet compliance alternative 2 and 3 requirements are provided below.

Step 1 - Estimate the Sediment Reduction from the 50-foot Buffer

In order to design controls that match the sediment removal efficiency of a 50-foot buffer, you first need to know what this efficiency is for your site. The sediment removal efficiencies of natural buffers vary according to a number of site-specific factors, including precipitation, soil type, land cover, slope length, width, steepness, and the types of erosion and sediment controls used to reduce the discharge of sediment prior to the buffer. ODAFF has simplified this calculation by developing buffer performance tables covering a range of vegetation and soil types for the areas covered by the CGP. See Attachment 1 of this Appendix, Tables G-8 through G-15. Note: buffer performance values in Tables G-8 through G-15 represent the percent of sediment captured through the use of perimeter controls (e.g., silt fences) and 50-foot buffers at disturbed sites of fixed proportions and slopes.¹

¹ ODAFF used the following when developing the buffer performance tables:

- The sediment removal efficiencies are based on the U.S. Department of Agriculture's RUSLE2 ("Revised Universal Soil Loss Equation 2") model for slope profiles using a 100-foot long denuded slopes.
- Sediment removal was defined as the annual sediment delivered at the downstream end of the 50-foot natural buffer (tons/yr/acre) divided by the annual yield from denuded area (tons/yr/acre).
- As perimeter controls are also required by the CGP, sediment removal is in part a function of the reduction due to a perimeter control (i.e., silt fence) located between the disturbed portion of the site and the upstream edge of the natural buffer and flow traveling through a 50-foot buffer of undisturbed natural vegetation.
- It was assumed that construction sites have a relatively uniform slope without topographic features that accelerate the concentration for erosive flows.

Using Tables G-8 through G-15 (see Attachment 1 of this Appendix), you can determine the sediment removal efficiency of a 50-foot buffer for your geographic area by matching the vegetative cover type that best describes your buffer area and the type of soils that predominate at your site. For example, if your site is located in Massachusetts (Table G-9), and your buffer vegetation corresponds most closely with that of tall fescue grass, and the soil type at your site is best typified as sand, your site's sediment removal efficiency would be 81 percent.

In this step, you should choose the vegetation type in the tables that most closely matches the vegetation that would exist naturally in the buffer area on your site regardless of the condition of the buffer. However, because you are not required to plant any additional vegetation in the buffer area, in determining what controls are necessary to meet this sediment removal equivalency in Step 2 below, you will be able to take credit for this area as a fully vegetated "natural buffer."

Similarly, if a portion of the buffer area adjacent to the water of the U.S. is owned by another party and is not under your control, you can treat the area of land not under your control as having the equivalent vegetative cover and soil type that predominates on the portion of the property on which your construction activities are occurring.

For example, if your earth-disturbances occur within 50 feet of a water of the U.S., but the 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10 foot area adjacent to the stream as having the equivalent soil and vegetation type that predominates in the 40 foot area under your control. You would then make the same assumption in Step 2 for purposes of determining the equivalent sediment removal.

Alternatively, you may do your own calculation of the effectiveness of the 50-foot buffer based upon your site-specific conditions, and may use this number as your sediment removal equivalency standard to meet instead of using Tables G-8 through G-15. This calculation must be documented in your SWPPP.

Step 2 - Design Controls That Match the Sediment Removal Efficiency of the 50-foot Buffer

Once you determine the estimated sediment removal efficiency of a 50-foot buffer for your site in Step 1, you must next select stormwater controls that will provide an equivalent sediment load reduction. These controls can include the installation of a single control, such as a sediment pond or additional perimeter controls, or a combination of stormwater controls. Whichever control(s) you select, you must demonstrate in your SWPPP that the controls will provide at a minimum the same sediment removal capabilities as a 50-foot natural buffer (Step 1). You may take credit for the removal efficiencies of your required perimeter controls in your calculation of equivalency, because these were included in calculating the buffer removal efficiencies in Tables G-8 through G-15. (Note: You are reminded that the controls must be kept in effective operating condition until you complete final stabilization on the disturbed portions of the site discharging to the water of the U.S.)

- It was assumed that vegetation has been removed from the disturbed portion of the site and a combination of cuts and fills have resulted in a smooth soil surface with limited retention of near-surface root mass.

To represent the influence of soil, ODAFF analyzed 11 general soil texture classifications in its evaluation of buffer performance. To represent different types of buffer vegetation, ODAFF evaluated 4 or more common vegetative types for each state/territory covered under the permit. For each vegetation type evaluated, ODAFF considered only permanent, non-grazed, and non-harvested vegetation, on the assumption that a natural buffer adjacent to the water of the U.S. will typically be undisturbed. ODAFF also evaluated slope steepness and found that sediment removal efficiencies present in Tables G-8 through G-15 are achievable for slopes that are less than nine percent.

To make the determination that your controls and/or buffer area achieve an equivalent sediment load reduction as a 50-foot buffer, you should use a model or other type of calculation. As mentioned above, there are a variety of models available that can be used to support your calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other models. A couple of examples are provided in Attachment 3 to help illustrate how this determination could be made.

If you retain a buffer of less than 50 feet, you may take credit for the removal that will occur from the reduced buffer and only need to provide additional controls to make up the difference between the removal efficiency of a 50 foot buffer and the removal efficiency of the narrower buffer. For example, if you retain a 30 foot buffer, you can account for the sediment removal provided by the 30 foot buffer retained, and you will only need to design controls to make up for the additional removal provided by the 20 feet of buffer that is not being provided. To do this, you would plug the width of the buffer that is retained into RUSLE or another model, along with other stormwater controls that will together achieve a sediment reduction equivalent to a natural 50-foot buffer.

As described in Step 1 above, you can take credit for the area you retained as a "natural buffer" as being fully vegetated, regardless of the condition of the buffer area.

For example, if your earth-disturbances occur 30 feet from a water of the U.S., but the 10 feet of land immediately adjacent to the water of the U.S. is owned by a different party than the land on which your construction activities are taking place and you do not have control over that land, you can treat the 10-foot area as a natural buffer, regardless of the activities that are taking place in the area. Therefore, you can assume (for purposes of your equivalency calculation) that your site is providing the sediment removal equivalent of a 30-foot buffer, and you will only need to design controls to make up for the additional removal provided by the 20-foot of buffer that is not being provided.

Step 3 - Document How Site-Specific Controls Will Achieve the Sediment Removal Efficiency of the 50-foot Buffer

In Steps 1 and 2, you determined both the expected sediment removal efficiency of a 50-foot buffer at your site, and you used this number as a performance standard to design controls to be installed at your site, which alone or in combination with any retained natural buffer, achieves the expected sediment removal efficiency of a 50-foot buffer at your site. The final step is to document in your SWPPP the information you relied on to calculate the equivalent sediment reduction as an undisturbed natural buffer.

ODAFF will consider your documentation to be sufficient if it generally meets the following:

- For Step 1, refer to the table in Attachment 1 that you used to derive your estimated 50-foot buffer sediment removal efficiency performance. Include information about the buffer vegetation and soil type that predominate at your site, which you used to select the sediment load reduction value in Tables G-8 through G-15. Or, if you conducted a site-specific calculation for sediment removal efficiency, provide the specific removal efficiency, and the information you relied on to make your site-specific calculation.
- For Step 2, (1) Specify the model you used to estimate sediment load reductions from your site; and (2) the results of calculations showing how your controls will meet or exceed the sediment removal efficiency from Step 1.

If you choose compliance alternative 3, you must also include in your SWPPP a description of why it is infeasible for you to provide and maintain an undisturbed natural buffer of any size.

G.3 SMALL RESIDENTIAL LOT COMPLIANCE ALTERNATIVES

ODAFF has developed two additional compliance alternatives applicable only to “small residential lots” that are unable to provide and maintain a 50 foot buffer.

A **small residential lot** is a lot or grouping of lots being developed for residential purposes that will disturb less than 1 acre of land, but that is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre.

The following steps describe how a small residential lot operator would achieve compliance with one these 2 alternatives.

G.3.1 Small Residential Lot Compliance Alternative Eligibility

In order to be eligible for the small residential lot compliance alternatives, the following conditions must be met:

- a. The lot or grouping of lots meets the definition of “small residential lot”; and
- b. The operator must follow the guidance for providing and maintaining a natural buffer in Part G.2.3 of this Appendix, including:
 - i. Ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site’s erosion and sediment controls, and use velocity dissipation devices if necessary to prevent erosion caused by stormwater within the buffer;
 - ii. Document in the SWPPP the natural buffer width retained on the property, and show the buffer boundary on your site plan; and
 - iii. Delineate, and clearly mark off, with flags, tape, or other similar marking device, all natural buffer areas.

G.3.2 Small Residential Lot Compliance Alternatives

You must next choose from one of two small residential lot compliance alternatives and implement the stormwater control practices associated with that alternative.

Note: The compliance alternatives provided below are not mandatory. Operators of small residential lots can alternatively choose to comply with the any of the options that are available to other sites in Part 2.2.1.a and G.2.1 of this Appendix.

Small Residential Lot Compliance Alternative 1

Alternative 1 is a straightforward tiered-technology approach that specifies the controls that a small residential lot must implement based on the buffer width retained. To meet the requirements of small residential lot compliance alternative 1, you must implement the controls specified in Table G-1 based on the buffer width to be retained. See footnote 3, below, for a description of the controls you must implement.

For example, if you are an operator of a small residential lot that will be retaining a 35-foot buffer and you choose Small Residential Lot Compliance Alternative 1, you must implement double perimeter controls between earth disturbances and the water of the U.S.

In addition to implementing the applicable control, you must also document in your SWPPP how you will comply with small residential lot compliance alternative 1.

Table G-1 Alternative 1 Requirements²

Retain 50-foot Buffer	Retain <50 and >30 foot Buffer	Retain ≤ 30 foot Buffer
No Additional Requirements	Double Perimeter Controls	Double Perimeter Controls and 7-Day Site Stabilization

Small Residential Lot Compliance Alternative 2

Alternative 2 specifies the controls that a builder of a small residential lot must implement based on both the buffer width retained and the site's sediment discharge risk. By incorporating the sediment risk, this approach may result in the implementation of controls that are more appropriate for the site's specific conditions.

Step 1 – Determine Your Site's Sediment Risk Level

To meet the requirements of Alternative 2, you must first determine your site's sediment discharge "risk level" based on the site's slope, location, and soil type. To help you to determine your site's sediment risk level, ODAFF developed five different tables for different slope conditions. You should select the table that most closely corresponds to your site's average slope.

For example, if your site's average slope is 7 percent, you should use Table G-4 to determine your site's sediment risk.

After you determine which table applies to your site, you must then use the table to determine the "risk level" (e.g., "low", "moderate", or "high") that corresponds to your site's location and predominant soil type.³

For example, based on Table G-3, a site located in New Hampshire with a 4 percent average slope and with predominately sandy clay loam soils would fall into the "moderate" risk level.

² Description of Additional Controls Applicable to Small Residential Lot Compliance Alternatives 1 and 2:

- **No Additional Requirements:** If you implement a buffer of 50 feet or greater, then you are not subject to any additional requirements. Note that you are required to install perimeter controls between the disturbed portions of your site and the buffer in accordance with Part 2.2.3.
- **Double Perimeter Control:** In addition to the reduced buffer width retained on your site, you must provide a double row of perimeter controls between the disturbed portion of your site and the water of the U.S. spaced a minimum of 5 feet apart.
- **Double Perimeter Control and 7-Day Site Stabilization:** In addition to the reduced buffer width retained on your site and the perimeter control implemented in accordance with Part 2.2.3, you must provide a double row of perimeter controls between the disturbed portion of your site and the water of the U.S. spaced a minimum of 5 feet apart, and you are required to complete the stabilization activities specified in Parts 2.2.14 within 7 calendar days of the temporary or permanent cessation of earth-disturbing activities.

³ One source for determining your site's predominant soil type is the USDA's Web Soil Survey located at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

Table G-2 Risk Levels for Sites with Average Slopes of ≤ 3 Percent

Soil Type Location	Clay		Silty Clay Loam or Clay- Loam		Sand		Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
	CNMI / Guam	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High
Puerto Rico	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High	
Virgin Islands	Low	Moderate	Low	Moderate	Moderate	Moderate	Moderate	
American Samoa	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High	
Massachusetts and New Hampshire	Low	Moderate	Low	Moderate	Low	Low	Moderate	
Idaho	Low	Low	Low	Low	Low	Low	Low	
New Mexico	Low	Low	Low	Low	Low	Low	Low	
Washington D.C.	Low	Moderate	Low	Moderate	Low	Low	Moderate	

Table G-3 Risk Levels for Sites with Average Slopes of > 3 Percent and ≤ 6 Percent

Soil Type Location	Clay		Silty Clay Loam or Clay- Loam		Sand		Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
	CNMI / Guam	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High
Puerto Rico	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High	
Virgin Islands	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High	
American Samoa	High	High	Moderate	Moderate	Moderate	High	High	
Massachusetts and New Hampshire	Moderate	Moderate	Low	Moderate	Low	Moderate	High	
Idaho	Low	Low	Low	Low	Low	Low	Low	
New Mexico	Low	Low	Low	Low	Low	Low	Moderate	
Washington D.C.	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	High	

Table G-4 Risk Levels for Sites with Average Slopes of > 6 Percent and ≤ 9 Percent

Soil Type Location	Soil Type				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	Moderate	High	Moderate	High	High
Puerto Rico	Moderate	High	Moderate	Moderate	High
Virgin Islands	Moderate	Moderate	Moderate	Moderate	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	Moderate	Moderate	Moderate	Moderate	High
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Low	Low	Low	Moderate
Washington D.C.	Moderate	Moderate	Moderate	Moderate	High

Table G-5 Risk Levels for Sites with Average Slopes of > 9 Percent and ≤ 15 Percent

Soil Type Location	Soil Type				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	High	High	High	High	High
Puerto Rico	High	High	High	High	High
Virgin Islands	Moderate	High	Moderate	High	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	Moderate	Moderate	Moderate	Moderate	High
Idaho	Low	Low	Low	Low	Low
New Mexico	Low	Moderate	Low	Moderate	Moderate
Washington D.C.	Moderate	High	Moderate	Moderate	High

Table G-6 Risk Levels for Sites with Average Slopes of > 15 Percent

Soil Type Location	Soil Type				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
CNMI / Guam	High	High	High	High	High
Puerto Rico	High	High	High	High	High
Virgin Islands	High	High	High	High	High
American Samoa	High	High	High	High	High
Massachusetts and New Hampshire	High	High	Moderate	High	High
Idaho	Low	Low	Low	Low	Moderate
New Mexico	Moderate	Moderate	Moderate	Moderate	High
Washington D.C.	High	High	Moderate	High	High

Step 2 – Determine Which Additional Controls Apply

Once you determine your site's "risk level", you must next determine the additional controls you need to implement on your site, based on the width of buffer you plan to retain. Table G-7 specifies the requirements that apply based on the "risk level" and buffer width retained. See footnote 3, above, for a description of the additional controls that are required.

For example, if you are the operator of a small residential lot that falls into the "moderate" risk level, and you decide to retain a 20-foot buffer, using Table G-7 you would determine that you need to implement double perimeter controls to achieve compliance with small residential lot compliance alternative 2.

You must also document in your SWPPP your compliance with small residential lot compliance alternative 2.

Table G-7. Alternative 2 Requirements²

Risk Level Based on Estimated Soil Erosion	Retain ≥ 50' Buffer	Retain <50' and >30' Buffer	Retain ≤30' and >10' Buffer	Retain ≤ 10' Buffer
Low Risk	No Additional Requirements	No Additional Requirements	Double Perimeter Control	Double Perimeter Control
Moderate Risk	No Additional Requirements	Double Perimeter Control	Double Perimeter Control	Double Perimeter Control and 7-Day Site Stabilization
High Risk	No Additional Requirements	Double Perimeter Control	Double Perimeter Control and 7-Day Site Stabilization	Double Perimeter Control and 7-Day Site Stabilization

ATTACHMENT 1**Sediment Removal Efficiency Tables⁴**

ODAFF recognizes that very high removal efficiencies, even where theoretically achievable by a 50-foot buffer, may be very difficult to achieve in practice using alternative controls. Therefore in the tables below, ODAFF has limited the removal efficiencies to a maximum of 90%.

Efficiencies that were calculated at greater than 90% are shown as 90%, and this is the minimum percent removal that must be achieved by alternative controls.

Table G-8 Estimated 50-foot Buffer Performance in Idaho*

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Tall Fescue Grass	42	52	44	48	85
Medium-density Weeds	28	30	28	26	60
Low-density Warm-season Native Bunchgrass (i.e., Grama Grass)	25	26	24	24	55
Northern Mixed Prairie Grass	28	30	28	26	50
Northern Range Cold Desert Shrubs	28	28	24	26	50

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-9 Estimated 50-foot Buffer Performance in Massachusetts and New Hampshire*

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Warm-season Grass (i.e., Switchgrass, Lemongrass)	79	90	90	90	90
Cool-season Dense Grass (Kentucky Bluegrass, Smooth Bromegrass, Timothy)	78	90	90	90	90
Tall Fescue Grass	76	90	81	89	90
Medium-density Weeds	66	76	60	72	66

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

⁴ The buffer performances were calculated based on a denuded slope upgradient of a 50-foot buffer and a perimeter controls, as perimeter controls are a standard requirement (see Part 2.2.3).

Table G-10 Estimated 50-foot Buffer Performance in New Mexico*

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Tall Fescue grass	71	85	80	86	90
Medium-density Weeds	56	73	55	66	78
Low-density Warm-season Native Bunchgrass (i.e., Grama Grass)	53	70	51	62	67
Southern Mixed Prairie Grass	53	71	52	63	50
Southern Range Cold Desert Shrubs	56	73	55	65	53

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-11 Estimated 50-foot Buffer Performance in Washington, DC*

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Warm-season Grass (i.e., Switchgrass, Lemongrass)	82	90	90	90	90
Cool-season Dense Grass (Kentucky Bluegrass, Smooth Bromegrass, Timothy)	81	90	90	90	90
Tall Fescue Grass	79	90	83	89	90
Medium-density Weeds	71	79	66	75	74

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-12 Estimated 50-foot Buffer Performance in American Samoa*

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	82	90	90	90	83
Warm-season Grass (i.e., Switchgrass, Lemongrass)	82	90	90	90	85
Dense Grass	82	90	90	90	83
Tall Fescue Grass	82	89	82	89	79
Medium-density Weeds	70	73	62	75	59

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-13 Estimated 50-foot Buffer Performance in CNMI and Guam*

Type of Buffer Vegetation **	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	80	90	90	90	89
Warm-season Grass (i.e., Switchgrass, Lemongrass)	80	90	90	90	90
Dense Grass	79	90	90	90	89
Tall Fescue Grass	76	90	80	88	87
Medium-density Weeds	63	73	53	68	61

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-14 Estimated 50-foot Buffer Performance in Puerto Rico*

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	83	90	90	90	90
Warm-season Grass (i.e., Switchgrass, Lemongrass)	83	90	90	90	90
Dense Grass	83	90	90	90	90
Tall Fescue Grass	82	90	84	90	89
Medium-density Weeds	72	78	65	76	64

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

Table G-15 Estimated 50-foot Buffer Performance in Virgin Islands*

Type of Buffer Vegetation**	Estimated % Sediment Removal				
	Clay	Silty Clay Loam or Clay-Loam	Sand	Sandy Clay Loam, Loamy Sand or Silty Clay	Loam, Silt, Sandy Loam or Silt Loam
Bahiagrass (Permanent cover)	85	90	90	90	90
Warm-season Grass (i.e., Switchgrass, Lemongrass)	86	90	90	90	90
Dense Grass	85	90	90	90	90
Tall Fescue Grass	85	90	88	90	89
Medium-density Weeds	75	77	71	78	63

* Applicable for sites with less than nine percent slope

** Characterization focuses on the under-story vegetation

ATTACHMENT 2

Using the Sediment Removal Efficiency Tables – Questions and Answers

- *What if my specific buffer vegetation is not represented in Tables G-8 through G-15?* Tables G - 8 through G - 15 provide a wide range of factors affecting buffer performance; however, there are likely instances where the specific buffer vegetation type on your site is not listed. If you do not see a description of the type of vegetation present at your site, you should choose the vegetation type that most closely matches the vegetation type on your site. You can contact your local Cooperative Extension Service Office (<http://nifa.usda.gov/partners-and-extension-map>) for assistance in determining the vegetation type in Tables G-8 through G-15 that most closely matches your site-specific vegetation.
- *What if there is high variability in local soils?* ODAFF recognizes that there may be a number of different soil type(s) on any given construction site. General soil information can be obtained from USDA soil survey reports (<http://websoilsurvey.nrcs.usda.gov>) or from individual site assessments performed by a certified soil expert. Tables G-8 through G-15 present eleven generic soil texture classes, grouping individual textures where ODAFF has determined that performance is similar. If your site contains different soil texture classes, you should use the soil type that best approximates the predominant soil type at your site.
- *What if my site slope is greater than 9 percent after final grade is reached?* As indicated in the buffer performance tables, the estimated sediment removal efficiencies are associated with disturbed slopes of up to 9 percent grade. Where your graded site has an average slope of greater than 9 percent, you should calculate a site-specific buffer performance.
- *How do I calculate my own estimates for sediment reduction at my specific site?* If you determine that it is necessary to calculate your own sediment removal efficiency using site-specific conditions (e.g., slopes at your site are greater than 9 percent), you can use a range of available models that are available to facilitate this calculation, including USDA's RUSLE-series programs and the WEPP erosion model, SEDCAD, SEDIMOT, or other equivalent models.
- *What is my estimated buffer performance if my site location is not represented by Tables G-8 through G-15?* If your site is located in an area not represented by Tables G-8 through G-15, you should use the table that most closely approximates conditions at your site. You may instead choose to conduct a site-specific calculation of the buffer performance.
- *What if only a portion of my site drains to the buffer area?* If only a portion of your site drains to a water of the U.S., where that water is within 50 feet of your earth disturbances, you are only required to meet the equivalency requirement for the stormwater flows corresponding to those portions of the site. See Example 2 below for an example of how this is expected to work.

ATTACHMENT 3

Examples of How to Use the Sediment Removal Efficiency Tables

Example 1. Comparatively Wet Location (7.5 acre site located in Massachusetts)

The operator of a 7.5-acre construction site in Massachusetts has determined that it is infeasible to establish a buffer of any size on the site, and is now required to select and install controls that will achieve an equivalent sediment load reduction as that estimated in G-9 for their site conditions. The first step is to identify what percentage of eroded sediment is estimated to be retained from a 50-foot buffer. For this example, it is assumed that the site has a relatively uniform gentle slope (3 percent), so Table G-9 can be used to estimate the 50-foot buffer sediment load reduction. If the site's buffer vegetation is best typified by cool-season dense grass and the underlying soil is of a type best described as loamy sand, the 50-foot buffer is projected to capture 90 percent of eroded sediment from the construction site.

The second step is to determine what sediment controls can be selected and installed in combination with the perimeter controls already required to be implemented at the site (see Part 2.2.3), which will achieve the 90 percent sediment removal efficiency from Table G-9. For this example, using the RUSLE2 profile model, it was determined that installing a pair of shallow-sloped diversion ditches to convey runoff to a well-designed and maintained sediment basin provides 99 percent sediment removal. Because the estimated sediment reduction is greater than the required 90 percent that a 50-foot buffer provides, the operator will have met the buffer requirements. See Figure G-5. The operator could also choose a different set of controls, as long as they achieve at least a 90 percent sediment removal efficiency.

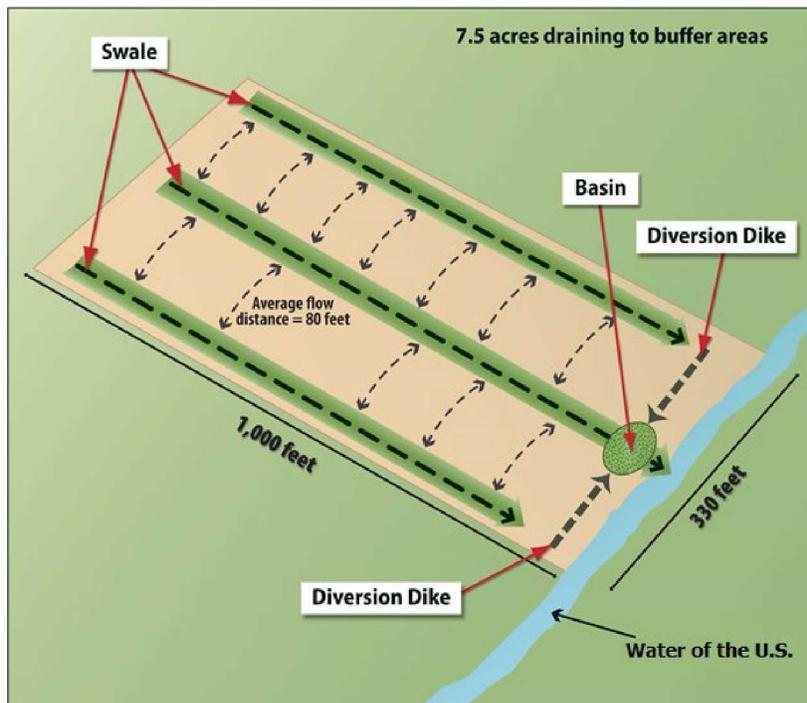


Figure G-5 Example 1 – Equivalent Sediment Load Reductions at a 7.5 ac Site in MA.

Example 2. Arid Location With Pre-existing Disturbances in the Natural Buffer (6.5 acre site located in New Mexico)

An operator of a site in New Mexico determines that it is not feasible to provide a 50-foot buffer, but a 28-foot buffer can be provided. Because the operator will provide a buffer that is less than

50 feet, the operator must determine which controls, in combination with the 28-foot buffer, achieve a sediment load reduction equivalent to the 50-foot buffer. In this example, the project will disturb 6.5 acres of land, but only 1.5 acres of the total disturbed area drains to the buffer area. Within the 28-foot buffer area is a preexisting concrete walkway. Similar to Example 1, the equivalence analysis starts with Step 1 in Part G.2.4 of this Appendix with a review of the New Mexico buffer performance (Table G-10). The operator determines that the predominate vegetation type in the buffer area is prairie grass, the soil type is similar to silt, and the site is of a uniform, shallow slope (e.g., 3 percent grade). Although the operator will take credit for the disturbance caused by the concrete walkway as a natural buffer in Step 2, here the operator can treat the entire buffer area as being naturally vegetated with prairie grass. Based on this information, the operator refers to Table G-10 to estimate that the 50-foot buffer would retain 50 percent of eroded soil.

The second step is to determine, based on the 50 percent sediment removal efficiency found in Table G-10, what sediment controls, in combination with the 28-foot buffer area, can be implemented to reduce sediment loads by 50 percent or more. The operator does not have to account the reduction in buffer function caused by the preexisting walkway, and can take credit for the entire 28-foot buffer being fully vegetated in the analysis. For this example, using the RUSLE2 profile model, the operator determined that installing a fiber roll barrier between the silt fence (already required by Part 2.2.3) and the 28-foot buffer will achieve an estimated 84 percent sediment removal efficiency. See Figure G-6. Note that this operator is subject to the requirement in Part G.2.3 of this Appendix to ensure that discharges through the silt fence, fiber roll barrier, and 28-foot buffer do not cause erosion within the buffer. The estimated sediment reduction is greater than the required 50 percent; therefore the operator will have met the buffer alternative requirement.

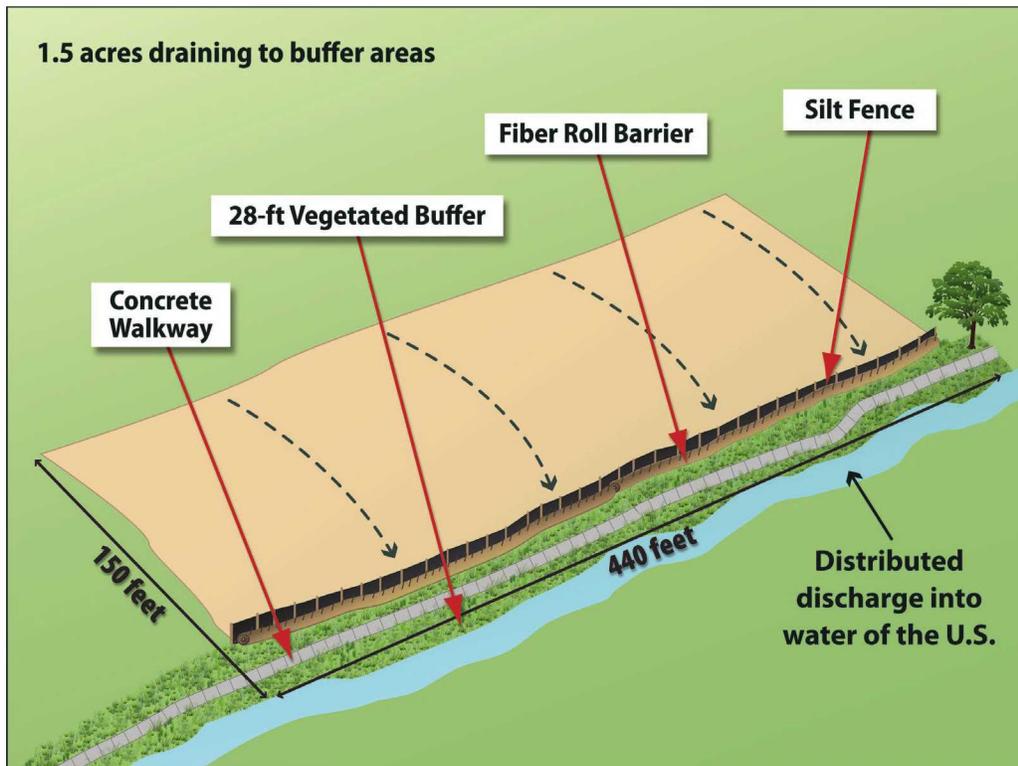


Figure G-6 Example 2 – Equivalent Sediment Load Reductions at a 6.5 ac Site in NM.

Appendix H – Notice of Intent (NOI) Form AEMS093



NOTICE OF INTENT
Oklahoma Department of Agriculture Food and Forestry

FORM
AEMS 093
08/2017 Rev.

Notice of Intent (NOI) for Storm Water Discharges Associated with Agricultural Construction Activity Under the AgPDES 2017 Construction General Permit (CGP)

SUBMISSION OF THIS NOTICE OF INTENT CONSTITUTES NOTICE THAT THE PARTY IDENTIFIED IN PART I OF THIS FORM INTENDS TO BE AUTHORIZED BY AN AgPDES PERMIT ISSUED FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY IN THE STATE OF OKLAHOMA. BECOMING A PERMITTEE OBLIGATES SUCH DISCHARGER TO COMPLY WITH THE TERMS AND CONDITIONS OF THE PERMIT. IN ORDER TO OBTAIN AUTHORIZATION, ALL REQUESTED INFORMATION MUST BE PROVIDED ON THIS FORM. SEE INSTRUCTIONS ON BACK OF FORM.

IF YOUR FACILITY OR SITE IS ON INDIAN COUNTRY LAND, FILE YOUR NOI WITH THE EPA, USING EPA FORM 3510-9.

Electronic Submission Waiver (skip if submitting through ODAFF's eNOI system)

I hereby acknowledge my waiver request from the use of ODAFF's electronic Notice of Intent system (eNOI) because my use of eNOI will incur undue burden or expense over my use of this paper NOI form, or if eNOI is otherwise unavailable.

Briefly describe the reason why use of the electronic system causes undue burden or expense.

I. Facility Owner/Operator Information (If you are a Co-permittee check this box)

Name: _____ Phone: (_____) _____
Fax: (_____) _____
Address: _____ Status of Owner/Operator: _____
City: _____ State: _____ Zip Code: _____ E-mail: _____

II. Site Information

Name of the project _____
Address _____ City _____ County _____ ZIP Code _____
Telephone No. (_____) _____ Location: Latitude _____ Longitude _____
Legal Description _____
Is this facility/site on Indian Country land? No Yes (if Yes See Instructions)

III. Project Description

Please provide a description of your construction project. (e.g., construction of barns, lagoons, etc.)

Has a Storm Water Pollution Prevention Plan (SWPPP) been developed? Yes No Is SWPPP implemented? Yes No

Address of location of SWPPP for viewing: Address in I. above. _____ Address in II. above. _____ Other, please specify below.

Address: _____ City _____ Zip Code _____

Phone: (_____) _____

Other Operational AgPDES Number (if any): _____

Name of Receiving Water Body or the name of the first waterbody that receives storm water directly from the point of discharge:

Is the Receiving Water Body on the DEQ 303(d) list of impaired waterbodies? No Yes

If yes, list the pollutants causing the impairment: _____

Are any of the waters of the state to which you discharge designated as a High Quality Water, Sensitive Water Supply or Outstanding Resource Water? No Yes

If yes, what type? _____

Indicate the size of your construction site: Less than 1 acre (if common plan of development/sale) _____ Between one and five acres _____ Five or More acres _____

Estimated area to be disturbed (to nearest acre): _____

ENDANGERED SPECIES PROTECTION

Using the instructions in Appendix D of CGP, under which criterion listed in Appendix D are you eligible for coverage under this permit. (only check 1 box)? (See instructions for a brief description of criterion A B & C for endangered species protection, page 3 of this form)

A B C

Provide a brief summary of the basis for criterion selected. _____

HISTORIC PRESERVATION

(See instructions for a brief description of Appendix E of CGP for historic preservation, page 4 of this form)

Are you installing any stormwater controls as described in Appendix E that require subsurface earth disturbance? (See Appendix E Step 1) Yes No

If yes, have prior surveys or evaluation conducted on site already determined historic properties do not exist, or that prior disturbances have precluded the existence of historic properties? (Appendix E Step 2) Yes No

If no, have you determined that your installation of subsurface earth-disturbing stormwater controls will have no effect on historic properties? (Appendix E Step 3) Yes No

If no, did the state or tribal historic preservation officer (or other tribal representative), whichever applies, respond to you within the 14 calendar days to indicate whether the activity affects historic properties? Yes No

If yes, describe the response: _____

_____/_____/_____/_____/_____/_____

Month Day Year

Month Day Year

Estimated Construction Start Date

Estimated Completion Date

Will construction project (land disturbing activities) include construction of stormwater control measures or BMPs? Yes No

Is the Storm Water Pollution Prevention Plan in compliance with all applicable local sediment and erosion plans? Yes No None

IV. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage this system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name (Please Print): _____ Date: _____

Signature: _____ Title _____

For AEMS use only: Assigned Authorization Number: _____

Instructions

ODAFF Notice of Intent (NOI) for Storm Water Discharges (SWD) Associated with Construction Activity to be Covered Under the AgPDES 2017 Construction General Permit (CGP)

Who Must File a Notice of Intent Form

Under the provisions of the Clean Water Act, as amended, (33 U.S. 1251 et seq. the Act), Oklahoma Agriculture Code, Title 2 of the Oklahoma Statutes, Section 2A - 8 and the rules OAC 35:44-1-2 and 35:44-1-1(c)10, discharge of storm water from construction activities is prohibited without a Pollutant Discharge Elimination System Permit. The operator of a construction site that has such a stormwater discharge (SWD) must submit a NOI to obtain coverage under the Construction Stormwater General Permit. If you have questions about whether you need a permit under the AgPDES Stormwater program, or if you need information, write to the address listed below or telephone the ODAFF AEMS at 405-522-5495 or 405-522-5493 and ask for AgPDES Permitting.

Where to File NOI Form

If submitting the NOI prior to December 21, 2020, the CAFO operator must prepare and submit the NOI using this paper NOI form. If submitting the NOI on or after December 21, 2020, the operator must prepare and submit the NOI using ODAFF's electronic Notice of Intent System (eNOI) on ODAFF's website (<http://www.ag.ok.gov/aems/agpdes.htm>) unless eNOI is otherwise unavailable or the operator has obtained a waiver from the requirements to use eNOI for submission of the NOI. Operators waived from the requirement to use eNOI for NOI submission must certify on the paper NOI submitted to ODAFF that use of eNOI will incur undue burden or expense compared to using the paper Notice of Intent form and provide documentation of reasoning used for this determination. Late NOIs will be accepted, but authorization to discharge will not be retroactive. Please submit paper NOIs to the following address:

**ODAFF
AEMS Division
P.O. Box 528804
Oklahoma City, OK 73152
FAX (405) 522-6357**

Completing the Form

You must type or print, using upper-case letters, in the appropriate areas only. If you have any questions on this form, call AEMS at (405) 522-5495.

Section I. Facility Owner/Operator Information

Provide the legal name, mailing address, and telephone number of the person, firm, public organization, or any other entity that either individually or together meet either of the following two criteria: (1) have operational control over the site specifications (including the ability to make modifications in specifications); and (2) have the day-to-day operational control of those activities at the site necessary to ensure compliance with plan requirements and permit conditions. If you are a Co-Permittee, check the appropriate box. Do not use a colloquial name.

Enter the appropriate letter to indicate the legal status of the operator of the facility: F = Federal; S = State; M = Public (other than Federal or State); P = Private.

Section II. Site Information

Enter the Project's official or legal name and complete street address, including city, county, state, ZIP code and phone number. If the site lacks a street address, indicate with a general statement the location of the site (e.g., Intersection of State Highways 61 and 34). **The applicant must also provide the latitude and longitude** of the facility in degrees, minutes, and seconds to the nearest 15 seconds (45° 7' 24" = 45.1234 decimal latitude) of the approximate center of the site. The latitude and longitude of your facility can be located by using a GPS device or USGS quadrangle maps. The quadrangle maps may be obtained at 1-800-USA MAPS.

If your facility or site is on Indian Country land, do not complete this form. File your NOI with the EPA using EPA Form 3510-9.

Section III. Project Description

Please provide a description of the construction project. This would include general information about the purpose of construction. For example, state that the construction project is an expansion of current facilities, new lagoon construction, facility reconfiguration, facility repair, or any other activities that will take place in the construction project.

Indicate if the Stormwater Pollution Prevention Plan (SWPPP) has been developed. Indicate if the SWPPP has been implemented. Refer to Part 7 of the General Permit for Information on SWPPP. 'Yes' means the SWPPP is ready to be implemented upon notification of coverage or that the SWPPP is ready to be implemented at the time the NOI form is submitted. Provide the address and phone number where the SWPPP may be viewed, if different from address previously given. Check appropriate box.

Are other AgPDES or NPDES permit numbers assigned to this site?

Enter the name of the receiving water body, the closest predominant receiving water body. The Oklahoma 303(d) list of impaired waterbodies can be found online at http://www.deq.ok.gov/wqdnew/305b_303d/index.html.

Indicate whether your construction site is between 1 and 5 acres or more than 5 acres. If the construction site is part of a larger common plan of development or sale that will ultimately disturb 1 or more acres of land, you must account for the total acreage of the development or sale. Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest acre.

Endangered Species Protection (Summary information provided here does not substitute for detailed information & requirements in Appendix D of the permit.)

Using the instructions in Appendix D of the CGP, indicate under which criterion (i.e., A, B, C,) of the permit the applicant is eligible with regard to protection of federally listed endangered and threatened species and designated critical habitat. A description of the basis for the criterion selected must also be provided. (See permit Appendix D for details. This summary does not substitute permit Appendix D)

Criterion Summary

A - No federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur in your site's "action area"

B - The construction site's discharges and discharge-related activities were already addressed in another operator's valid certification of eligibility for your action area under eligibility Criterion A, C, D, E, or F and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the "action area".

C - Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur in or near your site's "action area," and your site's discharges and discharge-related activities are not likely to adversely affect listed threatened or endangered species or critical habitat

Historic Preservation

Use the instructions in Appendix E to complete the questions on the NOI form regarding historic preservation. **(See permit Appendix E for details. This summary does not substitute permit Appendix E)**

Step 1 - Are you installing any stormwater controls that require subsurface earth disturbance? Examples: Dikes, Berms, Catch Basins, Ponds, Ditches, Trenches, Culverts, Channels Perimeter Drains (this is not an exhaustive list)

If you are not installing one of the above stormwater controls or another type of control that requires subsurface earth disturbance, then you may indicate No on your NOI, and no further screening is necessary.

Step 2 - If you are installing a stormwater control that requires subsurface earth disturbance, you must next determine if it has already been determined that no historic properties exist on your site based on prior professional cultural resource surveys or other evaluations, or that the existence of historic properties has been precluded because of prior earth disturbances.

If prior to your project it has already been determined that no historic properties exist at your site based on available information, including information that may be provided by your applicable state or tribal historic preservation officer, then you may indicate this on your NOI, and no further screening steps are necessary. Similarly, if earth disturbances that have occurred prior to your project have eliminated the possibility that historic properties exist on your site, you may indicate this on your NOI, and no further screening steps are necessary.

Step 3 - If your answer to the questions in Steps 1 and 2 is "no", then you must assess whether your earth-disturbing activities related to the installation of stormwater controls will have an effect on historic properties. This assessment may be based on historical sources, knowledge of the area, an assessment of the types of earth-disturbing activities you are engaging in, considerations of any controls and/or management practices you will adopt to ensure that your stormwater control-related earth-disturbing activities will not have an effect on historic properties, and any other relevant factors.

If none of the circumstances in Steps 1-3 exist for your project, you must proceed to Step 4.

Step 4 - If you are installing any stormwater controls that require subsurface earth disturbance and you have not satisfied the conditions in Steps 1-3, you must contact and consult with the appropriate historic preservation authorities.

Enter the estimated construction start and completion date using four digits for the year.

Indicate if land-disturbing activities will be conducted for the construction of storm water control.
Indicate if the SWPPP is in compliance with all other applicable local sediment and erosion plans.

Section IV. Certification

Federal Statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows: For a corporation: by a responsible corporate officer, which means: (I) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign had been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: by a general partner of the proprietor, or; for a municipality, state, Federal, or other public facility: by either a principal executive or ranking elected official.

IT IS YOUR RESPONSIBILITY TO ACQUIRE A COPY OF THIS PERMIT AND CAREFULLY READ ALL THE TERMS AND CONDITIONS

Appendix I – Notice of Termination (NOT) Form AEMS094



FORM AEMS094

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
Agricultural Environmental Management Services Division**

**NOTICE OF TERMINATION (NOT) FOR PERMIT AUTHORIZATION TO DISCHARGE
STORM WATER ASSOCIATED WITH AGRICULTURAL CONSTRUCTION ACTIVITIES**

Submission of this Notice of Termination constitutes notice that the party identified in Section I of this form is no longer authorized to discharge storm water associated with construction activities under the Agricultural Pollutant Discharge Elimination System (AgPDES) program.

All requested information must be provided on this form. See instructions.

SECTION I. PERMIT INFORMATION

AgPDES Construction Storm Water Permit Authorization Number: OKR14 _____

Reason for termination (check one box only)

- You have completed earth-disturbing activities at your site and you have met all requirements in Permit Part 8.2.1.
- Another operator has assumed control over all areas of the site and that operator has submitted an NOI and obtained coverage under the Construction General Permit.
- You have obtained coverage under an individual permit or another general NPDES permit addressing storm water discharged from the construction site.

SECTION II. OPERATOR INFORMATION

Name: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

SECTION III. PROJECT/FACILITY/SITE LOCATION

Project/Facility/Site Name: _____

Project/Facility/Site Address: _____

City: _____ State: _____ Zip: _____

Latitude: _____ Longitude: _____ County: _____

Legal Description: _____

SECTION IV. CERTIFICATION

I certify under penalty of law that all storm water discharges associated with construction activity from the identified facility/site that were authorized by a general permit have been eliminated or that I am no longer the operator of the facility/site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under this general permit, and that discharging pollutants in storm water associated with construction activity to waters of the State is unlawful under the Clean Water Act and OAC 35:44-1-2 and 35:44-1-1(c)(10) where the discharge is not authorized by an AgPDES permit. I also understand that the submittal of this Notice of Termination does not release me as an operator from liability for any violations of this permit or the Clean Water Act.

Name (print): _____ Title: _____

Signature: _____ Date: _____

INSTRUCTIONS FOR COMPLETING FORM AEMS094

Who May File an NOT Form

Permittees who are presently covered under the Construction General Permit (CGP) for Storm Water Discharges Associated with Construction Activity may submit an NOT form when:

- (1) earth-disturbing activities at the site are completed and the conditions in Permit Part 8.2.1 are met; or
- (2) the permittee has transferred all areas under its control to another operator, and that operator has submitted and obtained coverage under this permit; or
- (3) the permittee has obtained coverage under a different NPDES permit for the same discharges.

Completing the Form

Type or print, using uppercase letters, in the appropriate areas only. If you have any questions about this form, telephone ODAFF, AEMS Division at 405-522-5495 or 405-522-5493.

Section I. Permit Information

Enter the existing AgPDES Storm Water General Permit Authorization Number assigned to the facility or site. If you do not know the permit authorization number, refer to the permit authorization issuance letter from ODAFF-AEMS Division authorizing discharges under this permit or contact ODAFF-AEMS Division at 405-522-5493.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one (1) of the three (3) available choices provided in this section. Requirements in Permit Part 8.2.1 mentioned in the first choice are shown below.

Part 8.2.1 Requirements

8.2.1.1 For any areas that (1) were disturbed during construction, (2) are not covered over by permanent structures, and (3) over which you had control during the construction activities, you have met the requirements for final vegetative or non-vegetative stabilization.

8.2.1.2 You have removed and properly disposed of all construction materials, waste and waste handling devices, and have removed all equipment and vehicles that were used during construction, unless intended for long-term use following your termination of permit coverage.

8.2.1.3 You have removed all storm water controls that were installed and maintained during construction, except those that are intended for long-term use following your termination of permit coverage or those that are biodegradable.

8.2.1.4 You have removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following your termination of permit coverage.

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application and is covered by the permit authorization number identified in Section I. Enter the complete mailing address, telephone number, and email address of the operator.

Section III. Project/Facility/Site Location

Enter the official or legal name and complete physical address, including city, state, zip code, and county. If the project or site lacks a street address, indicate the general location of the site (e.g. Intersection of State Highways 61 and 34). Provide the GPS coordinates of the site. Complete site information must be provided for termination of permit coverage to be valid.

Section IV. Certification

The NOT must be signed as follows:

- For a corporation: By a responsible corporate officer. A responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- For a partnership or sole proprietorship: By a general partner or the proprietor, respectively.
- For a municipality, state, federal, or other public facility: By either a principal executive officer or ranking elected official.

Include the name and title of the person signing the form and the signing date. An unsigned or undated NOT will not be considered valid termination of permit coverage.

Where to File NOT

ODAFF - AEMS Division
P.O. Box 528804
Oklahoma City, OK 73152