

Delaware Sediment & Stormwater Program

***Delaware NPDES Construction General Permit
and
Revisions to 7 DE Administrative Code §7201
Regulations Governing the Control of Water Pollution
Part 9.2***

***Public Hearing
December 1, 2020***

Background

- §7201 Part 9.2 regulations
 - effective in 2006
 - Served as Delaware's Construction General Permit as a permit by regulation
- EPA requires general permits to be effective for 5 years only

Background

- DNREC developed proposed Construction General Permit (CGP)
 - EPA reviewed and approved in February 2020
 - CGP public notice concurrent with reg revisions public notice
 - CGP will be effective for five (5) years only

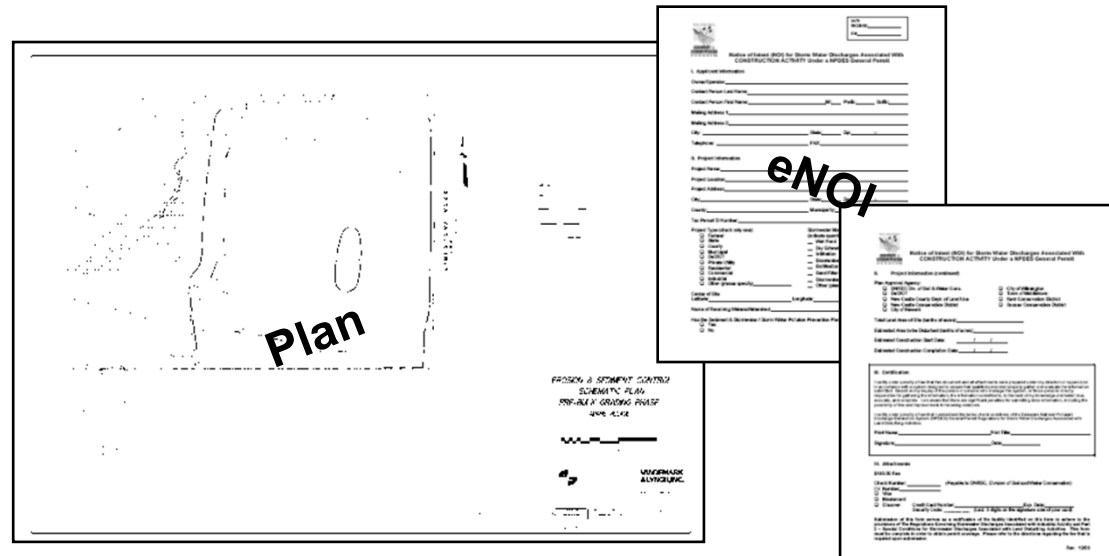
Background

- §7201 Part 9.2 regulations revised
 - Maintains core State regulatory program for discharges from construction activities
 - Enabling language for stand-alone CGP
 - Will remain constant even though CGP will be reauthorized every five (5) years
- Proposed CGP
 - More specific requirements
 - Updated every five (5) years

Overview of Proposed Construction General Permit

Authorization to Discharge

- Two components:
 - Approved Sediment and Stormwater Management Plan (Plan)
 - Electronic Notice of Intent (eNOI) for Stormwater Discharges Associated with Construction Activity



CGP Eligibility

- All areas of Delaware except Federal facilities
 - Must seek coverage under EPA CGP
- Land disturbances ≥ 1.0 acre
 - Includes < 1.0 ac that are part of a larger common plan of development or sale

Electronic Notice of Intent (eNOI)

- Coverage under this CGP will expire when one of the following first occurs:
 - The CGP is reissued or expires; or
 - The approved Plan expires; or
 - A Notice of Termination (NOT) form has been completed and accepted by the Department; or
 - The Department administratively terminates coverage for a site.

Change of Operational Control

- New operator → New eNOI
- Previous operator → submit eNOT
- In effect since moving to eNOI system

Permitted Ongoing Projects

- Certification language in eNOI allows continuation of permit coverage
 - Included in annual billing
- Permittee responsible for maintaining plan approval

Effluent Limitations

- No numeric effluent limits
- Best Available Technology (BAT) approach
- Design, install and maintain effective erosion and sediment controls
 - IAW Sediment and Stormwater Regulations and regulatory guidance docs
 - Includes pollution prevention measures

Monitoring, Recordkeeping and Reporting

- Sediment and Stormwater Management Plan = Stormwater Pollution Prevention Plan (SWPPP)
 - Plan is valid for five (5) years
- Weekly maintenance inspections of BMPs
 - Conducted by responsible personnel or CCR
 - No after rainfall event reviews

Standard Conditions

- Delaware CGP Standard Conditions consistent with EPA CGP Standard Conditions

Summary of New Requirements under the CGP

- Department can administratively terminate coverage
- Transfer of authorization process changed
- Certification language in eNOI allows continuation of permit coverage
- Weekly inspections conducted by responsible personnel or CCR
- After rainfall inspection requirement removed

Overview of Regulation Revisions

7 DE Admin Code §7201 Part 9.2

Background

- §7201 Part 9.2 regulations revised
 - Maintains core State regulatory program for discharges from construction activities
 - Enabling language for stand-alone CGP
 - Will remain constant even though CGP will be reauthorized every five (5) years

Definitions

- Many definitions deleted
 - No longer appeared in §7201 Part 9.2
 - Requirements moved to CGP and definitions provided in the CGP
 - Defined in §7201 Part 6 - overall NPDES section
- Definition for CGP added

9.2.1

Coverage

- Reference to CGP
- Submittal of eNOI and approval of Sediment and Stormwater Plan
- Allows Co-Permittees
- Allows individuals to seek coverage under an individual permit

9.2.2

Conditions for Coverage

- Analogous to Standard Conditions in CGP
- Reauthorization of future CGPs does not necessarily require changes to Conditions for Coverage in §7201 Part 9.2

9.2.3 Notification

- Permitted ongoing projects
 - Updated regulatory language to allow continuing permit coverage under a reauthorized CGP
- Contents of eNOI and submittal requirements removed from regulation

9.2.4 Monitoring

- Effluent Limitations remains and reflects content of CGP
 - No numeric limits
 - Best Available Technology (BAT) approach
- Recordkeeping deleted
 - Contained in CGP

9.2.5

Sediment and Stormwater Plan

- Minor changes only from previous regulations
 - References to CGP
 - Plan approval period updated from three (3) years to five (5) years

9.2.6

Non-Stormwater Discharges

- List of allowable non-stormwater discharges updated to align with the current EPA CGP

9.2.7

Effective Date of Coverage

- Coverage commences when the Dept
 - Verifies submission of eNOI
 - Sediment and Stormwater Plan approved
- Termination of coverage
 - Submit eNOT within 60 days of project completion
 - Dept has ability to administratively terminate coverage

Exhibits

1. 7 Del. C. §6010
2. 40 CFR Part 123
3. SAN 2020-002
4. EPA approval of Delaware CGP
5. Proposed Delaware CGP
6. Proposed CGP Fact Sheet
7. Proposed 7 DE Admin Code §7201 Part 9.2
8. RFA-RIS form and responses
9. Register Notice – Proposed regulations
10. Register Notice - Proposed CGP and Fact Sheet
11. Legal Notice of Public Hearing
12. December 1, 2020 Public Hearing presentation

Schedule

- December 1, 2020
 - Public Hearing on §7201 Regulations
 - Public Hearing on Delaware CGP
- December 16, 2020
 - Comment period closes